

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

March 3, 2011
Agenda Item ⁵

SUBJECT: Malarky's Irish Pub - (PA2010-172)
3011 Newport Boulevard
▪ Conditional Use Permit No. UP2010-039
▪ Comprehensive Sign Program No. CS2011-002

APPLICANT: Malarky's Irish Pub Inc.

PLANNER: Jaime Murillo, Associate Planner
(949) 644-3209, jmurillo@newportbeachca.gov

PROJECT SUMMARY

The application consists of a conditional use permit request to expand an existing eating and drinking establishment and to allow for the use of off-site parking. The application also includes a request for a comprehensive sign program to allow more than 3 signs on a single-tenant building.

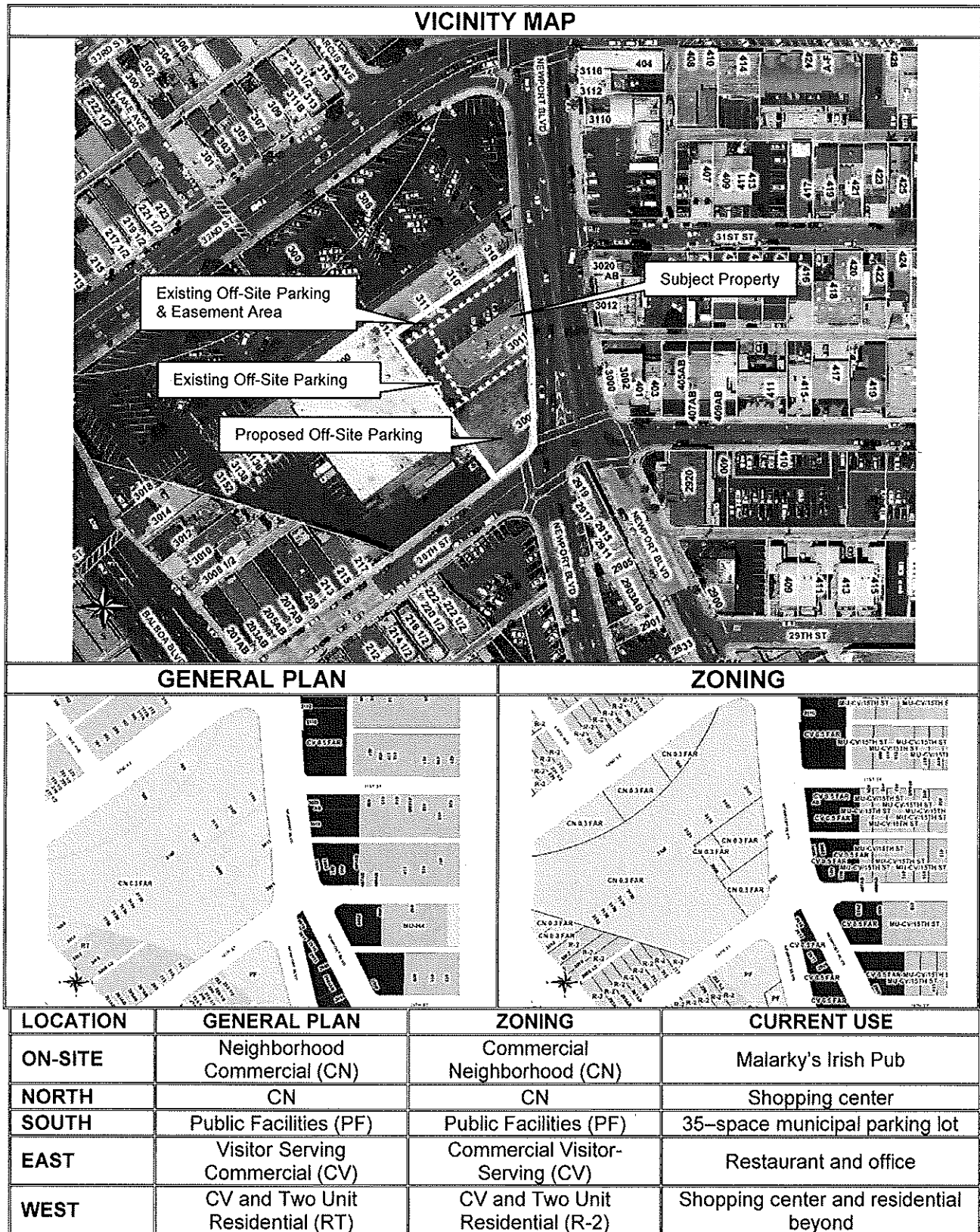
RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ approving Use Permit No. UP2010-039 and Comprehensive Sign Program No. CS2011-003 (Attachment No. PC1).

INTRODUCTION

Project Setting

The subject property is located on the northwest corner of the intersection of Newport Boulevard and 30th Street on the Balboa Peninsula. Surrounding land uses include The Landing shopping center to the north and west, Mama D's restaurant and an office building to the east across Newport Boulevard, and a 35-space municipal parking lot to the south. Beyond the loading dock of the shopping center to the west are several single-unit and two-unit residential dwellings on 30th Street.



The subject property consists of three parcels and 20-foot-wide easement for pedestrian and vehicular access and vehicular parking (see *Vicinity Map*). The restaurant/pub building itself and a portion of the required parking are located on the large, central parcel fronting Newport Boulevard. The balance of the required parking is located off-site on the 20-foot-wide easement to the north of the building and on the small parcel to the west. The applicant has also recently constructed a new parking lot on the former vacant lot south of the building in anticipation of the increased parking demand associated with this subject application.

The building consists of 4,966 square feet of gross floor area, of which only 1,150 square feet is considered Net Public Area (NPA)¹. The remaining floor area is used for office space, kitchen, food preparation, food storage, and restrooms. The existing furniture layout consists of a large, central bar and five bar tops located around the perimeter of the establishment. Sit-down dining is limited and consists of one booth and four tables.

Project Description

The applicant took ownership of the establishment in April of 2010 and is proposing to remodel and expand the establishment as follows:

1. **Remodel-** To more efficiently utilize the floor area within the existing building, the applicant is proposing to remodel the existing floor plan to include a new dining room, enlarged restrooms that are handicapped accessible, a new waiter service station, and a reduction of office space and food storage. As required by Building Code, the remodel will include the installation of fire sprinklers and a grease interceptor.
2. **Interior Dining Room Expansion-** To allow for increased food service, the applicant is proposing to add approximately 565 square feet of sit-down dining area. The dining area will consist of three new booths and approximately 11 new tables. The total interior NPA of the facility will increase to 1,715 square feet.
3. **Outdoor Dining Patio-** A new 782-square-foot outdoor dining patio is proposed to be constructed on the north side of the building. The applicant is proposing to provide only one exit from the patio, which will limit the maximum occupant load to a total of 49 persons. A 9-foot-8-inch-high glass barrier will be used to surround the patio and will provide for sound-attenuation from the vehicular noise from Newport Boulevard.

¹ **Area, Net Public.** The total area used to serve customers, including customer sales and display areas, customer seating areas, service counters, and service queue and waiting areas, but excluding restrooms and offices, kitchens, storage and utility areas, and similar areas used by the employees of the establishment.

4. **Facade Improvements** - The applicant is proposing to improve the exterior appearance of the building by removing the changeable sign marquee and painted signs, and add new foam cornices, decorative metal trim and an antique clock, new signage, new awnings, and a new entry canopy. The applicant is proposing an architectural theme of a traditional Irish Pub.

Proposed plans have been included as Attachment No. PC2. The total NPA of the establishment, including the interior dining room expansion and outdoor dining patio will be 2,497 square feet. No changes to the existing hours of operation are proposed (7:00 a.m. to 2:00 a.m., daily). During the day, the applicant intends to promote food service and operate as a restaurant establishment. In the late evening, the applicant intends to conclude food service and continue operating primarily as a bar. To address the increased parking demands of the establishment when operating as a bar and to minimize impacts to the residential uses in the vicinity, the applicant is proposing to close the outdoor dining patio at 11:00 p.m. No live entertainment or dancing is proposed; however, amplified music will be provided through a digital music jukebox.

Background

On May 20, 1976, the Planning Commission approved Use Permit No. 1792, which established Marlarky's Irish Pub, and accepted an off-site parking agreement for a portion of the required parking (see *Off-Site Parking* section for details). The use permit specifically permitted the establishment of a restaurant facility with on-sale alcoholic beverages. The hours of operation were limited to between 5:00 p.m. and 2:00 a.m. on weekdays and between 12:00 noon and 2:00 a.m. on weekends and holidays. On September 18, 1997, the Planning Commission approved an amendment to Use Permit No. 1792, allowing a change in the hours of operation to between 7:00 a.m. and 2:00 a.m., daily. A condition of approval was also added clarifying that the approval is for the continuation of a bar/lounge type facility as defined by Title 20 of the Municipal Code, with the principal purpose for the sale and service of alcoholic beverages with incidental food service.

DISCUSSION

Analysis

Use Classification

As stated above, when Use Permit No. 1792 was amended in 1997, a condition of approval was added clarifying that the approval is for the continuation of a bar/lounge type facility as defined by Title 20 of the Municipal Code. However, when the Zoning Code was updated in October of 2010, the definition of Bar, Lounge, and Nightclub changed and is now defined as *an establishment that sells or serves alcoholic beverages for consumption on the premises and is holding or applying for a public premise license from the California State Department of Alcoholic Beverage Control*

(ABC)... Persons under 21 years of age are not allowed to enter and remain on the premises. The applicant holds a Type 47 (On-Sale General- Eating Place) ABC license, which is not considered a public premise license; however, the applicant intends to continue operating as a bar in the late hours and as part of his security plan will not allow persons under 21 years of age within the establishment. The applicant also intends to operate the establishment as a restaurant during the day and intends to significantly expand breakfast, lunch, and dinner food service for persons of all ages. Therefore, the establishment's use classification will fall under the definition of Food Service, Late Hours².

Required Parking

A total of 47 parking spaces are proposed on-site and within the adjacent off-site parking spaces. Pursuant to Section 20.40.060 of the Zoning Code, Food Service uses are required to provide off-street parking within a range of one space for each 30 to 50 square feet of NPA, depending on the physical design, operational characteristics, and location of the establishment. Use Permit No. 1792 (amended) established a parking ratio of one space per 44 square feet of NPA during daytime hours when the establishment operates as a restaurant, and a higher parking ratio of one space per 40 square feet of NPA during the evening when the establishment operates as a bar³. Staff believes continuing to require the same variable parking ratios is appropriate for the following reasons:

- During the day, the intensity of the operation as a restaurant is substantially less than its nighttime operation as bar.
- The additional sit-down dining opportunities provided with the new interior dining room and outdoor dining patio are intended to expand food service, enhancing the restaurant operation during the day.
- The table and seating configuration will remain unchanged during the nighttime operation when the establishment operates as a bar, maintaining a lower occupant load in the sit-down dining areas.

² **Food Service, Late Hours.** An establishment that sells food and beverages, including alcoholic beverages, prepared for primary on-site consumption, and that has all of the following characteristics: 1) Establishment does have late hours; 2) Customers order food and beverages from individual menus; 3) Food and beverages are served at a fixed location (i.e., booth, counter, or table); and 4) Customers pay for food and beverages after service and/or consumption.

Late Hour Operations. Facilities that provide service after 11:00 p.m.

³ The rationale behind the split parking ratio was also related to the fact that the previous operator of Malarky's Irish Pub also owned and operated the Cannery Restaurant. The offices and storage space were jointly utilized to support Malarky's Irish Pub and the Cannery restaurant operations, and therefore, additional parking (3 spaces) was required during the day when the office space was in use. In the evening, the offices were not in use and the additional parking could be utilized exclusively for Malarky's Irish Pub.

- The outdoor dining patio is proposed to close at 11:00 p.m., reducing the capacity of the establishment when it operates primarily as a bar.
- The location of the establishment on the Balboa Peninsula affords the opportunity for significant walk-in and bike-in trade.
- A 35-space municipal parking lot is located directly across 30th Street and provides convenient parking should parking within the establishment's parking lot be full. Parking is also free of charge after 6:00 p.m. within the municipal lot and is in lower demand in the evenings when the intensity of the establishment is likely to increase.

Section 20.40.040 of the Zoning Code also includes a provision that excludes a portion of outdoor dining area (equal to 25 percent of the interior NPA) from required parking calculations. Based on the proposed interior NPA of 1,715 square feet, 429 square feet of outdoor dining is excluded from the parking calculations ($1,715 \text{ sf} \times 0.25 = 428.75 \text{ sf}$). Therefore, a total of 2,068 square feet of NPA (1,715 sf of interior NPA + 353 sf of remaining outdoor dining) is utilized for the purposes of calculating required parking. Based on the variable parking ratios discussed above, a total of 47 parking spaces will be required during the day when the establishment operates as a restaurant and a total of 43 spaces will be required during late hours (after 11:00 p.m.) when the establishment operates as a bar. Table 1 below provides a parking breakdown and comparison with the existing approval.

Table 1 – Parking Requirements and Comparison		
	Approved Project	Proposed Project
Total Net Public Area	1,150 sf	2,497 sf (includes 782 sf outdoor dining)
Net Public Area for Parking Purposes	1,150 sf	2,068 sf (includes 353 sf of outdoor dining)
Hours	Entire Facility 7:00 a.m. to 2:00 a.m., daily	Bar and Dining Area 7:00 a.m. to 2:00 a.m., daily Outdoor Dining Area 7:00 a.m. to 11:00 p.m., daily
Parking Required	Day- 1 per 44 sf ($1150/44=26$ spaces) Late Night- 1 per 40 sf ($1150/40=29$ spaces)	Day- 1 per 44 sf ($2068/44=47$ spaces) Late Night- 1 per 40 sf ($1715/40=43$ spaces)
Parking Provided	29 spaces	47 spaces (including proposed off-site parking)
Parking Surplus/Deficit	0	Day - 0 spaces Late Night - 4 space surplus

Off-Site Parking

Use Permit No. 1792 authorized the existing establishment to utilize off-site parking on the 20-foot-wide easement to the north of the building and on the small parcel to the west. A reciprocal easement agreement provides the establishment with exclusive rights to the parking spaces located within the 20-foot-wide easement in perpetuity. The small parcel to the west is owned by the same property owner of subject property, William J. Cagney Trust, but was never merged into one parcel, thereby requiring an off-site parking approval. The new parking lot located south of the building is also owned by the same property owner; however, because the property owner has not merged the parcels into one lot, the formal approval of off-site parking is required to formally utilize the new parking lot. Pursuant to Section 20.40.100 of the Zoning Code, off-street parking on a separate lot from the project site may be approved with a conditional use permit. In addition the standard conditional use permit findings, the Planning Commission must make the following findings below:

- 1. The parking facility is located within a convenient distance to the use it is intended to serve;*
- 2. On-street parking is not being counted towards meeting parking requirements;*
- 3. Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area; and*
- 4. The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.*

Staff believes sufficient facts exist in support of each finding. The proposed off-site parking lot is located adjacent to the subject property and the parking lot has been designed as an extension of the existing parking lot for the establishment. The required 47 parking spaces are provided entirely within the parking lot. The Traffic Engineer has reviewed and approved the configuration of the new parking lot extension and proposed changes to the existing parking lot, and has determined that the parking lot design will not create an undue traffic hazard in the surrounding area. The northerly driveway will be modified for one-way ingress and the southerly driveway will be provided for both ingress and egress circulation. The applicant has entered into a 10-year lease, with an option to renew for an additional 5 years, for use of the three parcels and 20-foot-wide easement (Attachment No. PC3- Basic Lease Provisions). Given that the William J. Cagney Trust owns the subject building and associated off-site parking lots, and has entered into a long-term lease with the applicant, staff believes the parking facility will remain available, marked, and maintained for the use of the subject establishment. A condition of approval has also been added requiring the 47 spaces to be permanently provided on-site or within the adjoining off-site lots.

Late-Hour Operations

Pursuant to Section 20.48.090 of the Zoning Code, the Planning Commission must consider the following potential impacts upon adjacent or nearby uses when reviewing an application to allow late-hour operations:

- 1. Noise from music, dancing, and voices associated with allowed outdoor uses and activities;*
- 2. High levels of lighting and illumination;*
- 3. Increased pedestrian and vehicular traffic activity during late and early morning hours;*
- 4. Increased trash and recycling collection activities;*
- 5. Occupancy loads of the use; and*
- 6. Any other factors that may affect adjacent or nearby uses.*

The nearest residential uses are located to the west on 30th Street, across from the loading dock of the adjacent shopping center. The nearest dwelling is located approximately 130 feet from the closest extent of the new parking lot boundaries and approximately 220 feet from the building itself. The adjacent shopping center building and an 8-foot-high block wall provides a screening and noise buffer from the project site. The applicant has also planted a row of bamboo trees along the block wall to help visually screen the establishment.

The applicant is not proposing any live entertainment or dancing; however, amplified music through the use of a jukebox is currently used. A condition of approval has been included requiring the exterior doors and windows to be maintained in the closed position at all times, except for the ingress and egress purposes. Significant noise impacts from the proposed outdoor dining patio are not anticipated given its location on the north side of the building, its distance of approximately 300 feet from the nearest residential dwelling, and the shielding by the existing shopping center building. The outdoor dining patio is also surrounded by a 9-foot-8-inch-high glass barrier that should help attenuate sound and will be completely closed by 11:00 p.m. No new lighting is proposed with the exception of illumination for the new signage and the outdoor patio. Existing exterior lighting exists only to illuminate the parking lot.

Malarky's Irish Pub is an existing establishment that currently operates as a bar until 2:00 a.m. Although the outdoor dining patio is proposed to close at 11:00 p.m., the interior dining expansion is expected to double the existing interior occupant load of 91 persons. The proposed plans indicate an interior occupant load of 198 persons; however, preliminary review by the Building Department reveals that the figure will likely

be reduced by approximately 20-30 persons after the plans are reviewed for Code compliance during building plan check. Given the increased occupancy, increased pedestrian and vehicular activity is expected during late and early morning hours. This is a primary concern for the residential neighbors on 30th Street due to the potential for patrons to loiter in the parking lot and adjacent streets, intoxicated patrons leaving the establishment, and noise from patrons walking home. The applicant has submitted a detailed security plan for consideration that outlines their plan for minimizing alcohol-related problems and crowd management (Attachment No. PC4). Should the Planning Commission approve all or any part of the conditional use permit request, the applicant will be required to obtain an Operator License from the Police Department. The Operator License will provide for enhanced control of noise, loitering, litter, disorderly conduct, parking/circulation, and other potential disturbances resulting from the establishment, and will provide the Police Department with means to modify, suspend, or revoke the operator's ability to maintain late-hour operations.

A temporary increase in traffic during late and early morning hours on weekends is also expected on 30th Street when the establishment closes. Left-turn movements out of the parking lot and northbound on Newport Boulevard are prohibited, and u-turns from the southbound left turn pocket on Newport Boulevard are also prohibited; therefore, patrons leaving the establishment and wanting to travel northbound out of the Peninsula are expected to either: 1) travel south on Newport Boulevard to 28th Street, where they can make two quick left-turns onto northbound Newport Boulevard; or 2) travel down 30th Street and make a right turn northbound on Balboa Boulevard. Traffic noise associated with the later option may be audible to the residents on 30th Street. Unfortunately, after discussing the concern with Traffic Engineering and reviewing the roadway geometrics, modifying the striping within Newport Boulevard to allow the left-turn movement will not be possible.

The trash enclosure is not currently provided on-site; however, the applicant is proposing to construct a new enclosure in the northwest corner of the parking lot. The design and area of the enclosure is proposed to comply with the design requirements of the Zoning Code.

Police Department Concerns

The Newport Beach Police Department provided staff a memorandum expressing concerns with the applicant's request (Attachment No. PC5). The Police Department is concerned that the increased occupant load of the establishment will result in an increase in police related activities and calls for police services. The resources required to address these potential events would detract from their ability to provide police services to other areas of the community. The project is located in a Police Reporting District (RD15) that is the most concentrated for retail alcohol establishments in the City and has a crime rate of 483.95 percent above the Citywide RD average. For these reasons, the Police Department is recommending that the outdoor dining area close at

10:00 p.m. and that the Planning Commission deny the applicant's request for the interior expansion.

Should the Planning Commission approve the applicant's request, the Police Department has recommended several conditions of approval to regulate and control potential nuisances that the establishment may create. The Police Department has also indicated that they would issue the initial Operator License based on the decision of the Planning Commission.

Conditional Use Permit Findings

Pursuant to Section 20.52.020.F of the Zoning Code, the Planning Commission must make the following findings in order to approve a conditional use permit:

- 1. The use is consistent with the General Plan and any applicable Specific Plan;*
- 2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*
- 3. The design, location, size, operating characteristics of the use are compatible with the allowed uses in the vicinity;*
- 4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*
- 5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Staff believes sufficient facts exist in support of each finding. The operation of a Food Service, Late Hours use, with alcoholic beverages, is consistent with the purpose and intent of the Neighborhood Commercial (CN) land use designation of the General Plan and Commercial Neighborhood (CN) Zoning District. The CN designation and district are intended to provide for a limited range of retail and service uses developed in one or more distinct centers oriented primarily to serve the needs and maintain compatibility with the residential uses in the area. Food Service uses can be expected to be found in this area and similar locations and are complementary to the surrounding commercial and residential uses.

As conditioned, the proposed project will comply with Zoning Code standards for eating and drinking establishments and solid waste storage, including the installation of a grease interceptor. The recent parking lots improvements and proposed facade improvements will have a positive impact on the overall aesthetics and economic health

of the community, and will hopefully promote further revitalization of the other commercial properties located along Newport Boulevard.

The project has been reviewed and conditioned to ensure that potential conflicts with the surrounding land uses are minimized to the extent possible to maintain a healthy environment for both residents and businesses. Adequate parking will be provided for the proposed operation at all times of the day, with a surplus of parking provided during late hours. The proposed outdoor dining patio will close by 11:00 p.m., once full meal service has concluded. The location and design of the outdoor dining patio should buffer the nearby residential uses from any potential noise disturbances when the outdoor patio is operational. To ensure that the interior expansion of the establishment does not create a detrimental impact during late hours, the operator will be required to secure an Operator License and will be required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance to areas surrounding the establishment and adjacent properties during business hours. Should the operator be unable to abide by the conditions of approval or prevent objectionable conditions from occurring, the Police Department will have the authority to modify, suspend, or revoke the operator's ability to maintain late-hour operations.

Comprehensive Sign Program

The applicant is proposing a total of five walls signs, eight awning signs, and one projecting sign. Pursuant to Section 20.42.120 of the Zoning Code, approval of a Comprehensive Sign Program is required whenever 3 or more signs are proposed for a single-tenant development. The purpose of a sign program is to integrate all of a project's signs, including a project identification sign, with the overall site design and the structure's design into a unified architectural statement. It is also intended to provide flexibility in the application of the City's sign regulations to projects that have multiple signs when it can be shown that the proposed program achieves the purposes of the City's sign ordinance.

The applicant is proposing to renovate the exterior appearance of the building in the architectural theme of a traditional Irish pub (Attachment No. PC6- Examples). The applicant's proposed plans include a Comprehensive Sign Program that defines the size, number, and design of all signage for the development (Attachment No. PC2 – Sheets A3.1 and A3.2). Staff has also prepared a Sign Program Matrix to supplement the plans and to specifically define the permitted sign standards for this project (Exhibit B of Attachment No. PC1). The Sign Program proposes the following deviations from the City's sign code regulations:

- Number of Signs – Maximum of one sign allowed per primary and secondary building frontage. The proposed signage includes three wall signs, four awning signs, and one projecting sign on the primary frontage. The secondary frontages include one wall sign and two awnings signs.

- Wall Signs (Separation) – Signs located on adjacent walls on the same building shall be separated by a minimum of 30 feet measured along the exterior walls of the building. The proposed wall signs maintain a separation as close as 18.5 feet.
- Wall Signs (Centering) - Signs shall be located within the middle 50 percent of the building frontage. The proposed wall signs on the primary frontage are equally spaced from each other and are located within the middle 75 percent of the building frontage. The signs on the secondary frontages are located towards the front corner of the building closest to Newport Boulevard.

The sign code normally allows one wall sign up to 75 square feet in area on the primary frontage; however, due to the existing tower element on the building that divides the front facade, one large wall sign cannot be achieved. Breaking up the signage into three separate smaller wall signs allows for a more aesthetically pleasing orientation of signage and achieves the applicant's design theme of a traditional Irish pub. The projecting sign and awning signs are minor and incidental to the wall signage. Combined, the proposed signage does not exceed the allowable sign area for each frontage. Also, given the orientation of the building, staff believes the deviations in the wall signs separation and centering are merited to allow the applicant more effective sign placement. Allowing the signs on the secondary frontages to be located towards the front corner of the building allows for increased sign visibility for motorists driving along Newport Boulevard.

Pursuant to Section 20.42.120.E, a Comprehensive Sign Program shall comply with a number of standards. Staff believes sufficient facts exist in support of each standard and has included such facts in the attached draft resolution.

Correspondence

The applicant has provided various letters in support of the project. The letters have been included at Attachment No. PC7.

Environmental Review

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities). This exemption authorizes additions to existing structures of up to 10,000 square feet. The proposed project consists of a 565-square-foot interior dining room expansion and the construction of a new 782-square-foot outdoor dining patio, and therefore, qualifies under this exemption.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Alternatives

1. The Planning Commission may suggest specific project modifications or operational changes that are necessary to alleviate concerns. If the changes are substantial, the item should be continued to a future meeting to allow redesign of the project.
2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission should deny the application requests.

Prepared by:


Jaime Murillo, Associate Planner

Submitted by:


Patrick J. Alford, Planning Manager

ATTACHMENTS

- PC 1 Draft Resolution with Findings and Conditions/Sign Program Matrix
- PC 2 Project Plans
- PC 3 Basic Lease Provisions
- PC 4 Security and Crowd Management Plan
- PC 5 Police Department Memorandum
- PC 6 Design Examples
- PC 7 Correspondence in Support

Attachment No. PC 1

Draft Resolution with Findings and
Conditions/Sign Program Matrix

RESOLUTION NO. ####

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF NEWPORT BEACH APPROVING CONDITIONAL USE
PERMIT NO. UP2010-013 AND COMPREHENSIVE SIGN
PROGRAM NO. CS2011-002 FOR AN EATING AND DRINKING
ESTABLISHMENT LOCATED AT 3011 NEWPORT BOULEVARD
(PA2010-172)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS
FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Malarky's Irish Pub Inc., with respect to property located at 3011 Newport Boulevard, Assessor Parcel Number's 047-060-01, 047-060-06, and 047-060-10, requesting approval of a conditional use permit and a comprehensive sign program.
2. The applicant filed an application for a conditional use permit request to expand an existing eating and drinking establishment and to allow for the use of off-site parking. The expansion includes remodeling the interior of the facility to create approximately 565 square feet of new dining area and the construction of an approximately 782-square-foot outdoor dining patio. The application also includes a request for a comprehensive sign program to allow more than three signs on a single-tenant building.
3. The subject property is located within the Commercial Neighborhood (CN) Zoning District and the General Plan Land Use Element category is Neighborhood Commercial (CN).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Neighborhood Commercial (CN).
5. A public hearing was held on March 3, 2011 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
2. This exemption authorizes additions to existing structures of up to 10,000 square feet. The proposed project consists of a 565-square-foot interior dining room expansion and the construction of a new 782-square-foot outdoor dining patio, and therefore, qualifies under this exemption.

SECTION 3. REQUIRED FINDINGS.

1. Pursuant to Section 20.42.120 of the Zoning Code, approval of a Comprehensive Sign Program is required whenever 3 or more signs are proposed for a single-tenant development. In accordance with Section 20.67.120.E, a Comprehensive Sign Program shall comply with a number of standards. The following standards and facts in support of such standards are set forth:

Standard:

- A. *The proposed sign program shall comply with the purpose and intent of this Chapter [Chapter 20.42: Signs], any adopted sign design guidelines and the overall purpose and intent of this Section [Section 20.42.120].*

Facts in Support of Standard:

- A-1. In compliance with the purpose and intent of the Sign Code, the proposed Sign Program provides the use with adequate identification without excessive proliferation of signage. Furthermore, it preserves community appearance by regulating the type, number, and design of signage.

Standard:

- B. *The proposed signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the Comprehensive Sign Program, to the structures and/or developments they identify, and to surrounding development when applicable.*

Facts in Support of Standard:

- B-1. The site is for use of a single tenant only, and the signage has been designed integral with the design and character of the building.
- B-2. The applicant is proposing to renovate the exterior appearance of the building in the architectural theme of a traditional Irish pub.
- B-3. The existing tower element divides the primary frontage of the building requiring signage to be broken up into three separate wall signs. The remaining awning signs and projecting sign are minor and incidental to the primary wall signs. The north and south elevations and considered secondary frontages and consist of only one wall sign and two incidental awning signs.

Standard:

- C. *The sign program shall address all signs, including permanent, temporary, and exempt signs.*

Facts in Support of Standard:

- C-1. The Sign Program submitted for the project addresses all project signage. Temporary and exempt signs not specifically addressed in the Program shall be regulated by the provisions of Chapter 20.42.

Standard:

- D. The sign program shall accommodate future revisions that may be required because of changes in use or tenants.*

Facts in Support of Standard:

- D-1. The project site is for the sole use of Malarky's Irish Pub and has been designed to be effective for such a use.
- D-2. It is not anticipated that future revisions will be necessary to accommodate constant changes in tenants or uses. However, flexibility has been incorporated into the Sign Program Matrix to allow minor deviations from the proposed plans.
- D-3. Consistent with Chapter 20.42, the Planning Director may approve minor revisions to the Sign Program if the intent of the original approval is not affected.

Standard:

- E. The program shall comply with the standards of this Chapter, except that deviations are allowed with regard to sign area, total number, location, and/or height of signs to the extent that the Comprehensive Sign Program will enhance the overall development and will more fully accomplish the purposes and intent of this Chapter.*

Facts in Support of Standard:

- E-1. The Sign Program requests deviation in number of signs and location.
- E-2. The sign code normally allows one wall sign up to 75 square feet in area on the primary frontage; however, due to the existing tower element on the building that divides the front facade, one large wall sign cannot be achieved.
- E-3. Breaking up the signage into three separate smaller wall signs allows for a more aesthetically pleasing orientation of signage and achieves the applicant's design theme of a traditional Irish pub.
- E-4. The projecting sign and awning signs are minor and incidental the main wall signage. Also, given the orientation of the building, staff believes the deviations

in the wall signs separation and centering are merited to allow the applicant more effective sign placement.

- E-5. Allowing the signs on the on the secondary frontages to be located towards the front corner of the building allows for increased sign visibility for motorists driving along Newport Boulevard.

Standard:

- F. The Approval of a Comprehensive Sign Program shall not authorize the use of signs prohibited by this Chapter.*

Facts in Support of Standard:

- F-1. The program does not authorize the use of prohibited signs.

Standard:

- G. Review and approval of a Comprehensive Sign Program shall not consider the signs' proposed message content.*

Facts in Support of Standard:

- G-1. The program contains no regulations affecting sign message or content.

2. Pursuant to Section 20.40.100 of the Zoning Code, off-street parking on a separate lot from the project site requires the approval of a conditional use permit. In addition to the standard conditional use permit findings, approval of off-site parking is subject to specific findings. The following findings and facts in support of such findings are set forth:

Finding:

- A. The parking facility is located within a convenient distance to the use it is intended to serve.*

Facts in Support of Finding:

- A-1. The proposed off-site parking lot is located immediately adjacent to the subject property.
- A-2. The proposed off-site parking lot has been designed as an extension of the existing parking lot for the establishment.

Finding:

- B. On-street parking is not being counted towards meeting parking requirements.*

Facts in Support of Finding:

B-1. The required 47 parking spaces are provided entirely within the parking lot.

Finding:

C. Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area.

Facts in Support of Finding:

C-1. The Traffic Engineer has reviewed and approved the configuration of the new parking lot extension and proposed changes to the existing parking lot, and has determined that the parking lot design will not create an undue traffic hazard in the surrounding area.

C-2. The northerly driveway will be modified for one-way ingress and the southerly driveway will be provided for both ingress and egress circulation.

Finding:

D. The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.

Facts in Support of Finding:

D-1. The applicant has entered into a 10-year lease, with an option to renew for an additional 5 years, for use of the three parcels and 20-foot-wide easement.

D-2. The William J. Cagney Trust owns the subject building and associated off-site parking lots, and has entered into a long-term lease with the applicant; therefore, the parking facility will remain available, marked, and maintained for the use of the subject establishment.

D-3. As a condition of approval, the required 47 spaces are to be permanently provided on-site or within the adjoining off-site lots.

3. Pursuant to Section 20.20.020 of the Zoning Code, eating and drinking establishments classified as *Food Service, Late Hours*, require the approval of a conditional use permit within the Commercial Neighborhood Zoning District. In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. The use is consistent with the General Plan and any applicable Specific Plan.

Facts in Support of Finding:

- A-1. The operation of a Food Service, Late Hours use, with alcoholic beverages, is consistent with the purpose and intent of the Neighborhood Commercial (CN) land use designation of the General Plan.
- A-2. The CN designation is intended to provide for a limited range of retail and service uses developed in one or more distinct centers oriented primarily to serve the needs and maintain compatibility with the residential uses in the area. Food Service uses can be expected to be found in this area and similar locations and are complementary to the surrounding commercial and residential uses.

Finding:

- B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

- B-1. Eating and drinking establishments classified as *Food Service, Late Hours*, require the approval of a conditional use permit within the CN district.
- B-2. As conditioned, the proposed project will comply with Zoning Code standards for eating and drinking establishments and solid waste storage, including the installation of a grease interceptor.
- B-3. Pursuant to Chapter 5.25, the project has been conditioned requiring the operator of the establishment to secure an Operator License from the Police Department to maintain operating hours beyond 11:00 p.m.
- B-4. The applicant will be required to enter into a parking agreement for the use of off-site parking, which guarantees the long term availability of the parking facilities and shall be recorded with the County Recorder's Office.

Finding:

- C. The design, location, size, operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

- C-1. The project has been reviewed and conditioned to ensure that potential conflicts with the surrounding land uses are minimized to the extent possible to maintain a healthy environment for both residents and businesses.

- C-2. Adequate parking will be provided for the proposed operation at all times of the day, with a surplus of parking provided during late hours.
- C-3. No live entertainment or dancing is proposed; however, amplified music through the use of a jukebox will be used. A condition of approval has been included requiring the exterior doors and windows to be maintained in the closed position at all times, except for the ingress and egress of patrons.
- C-4. Significant noise impacts from the proposed outdoor dining patio are not anticipated given its location on the north side of the building, its distance of approximately 300 feet from the nearest residential dwelling, and the shielding by the existing shopping center building. The outdoor dining patio is also surrounded by a 9-foot-8-inch-high glass barrier that should help attenuate sound and will be completely closed by 11:00 p.m.
- C-5. No new lighting is proposed with the exception of illumination for the new signage and the outdoor patio. Existing exterior lighting exists only to illuminate the parking lot.
- C-6. The trash enclosure is not currently provided on-site; however, the applicant is proposing to construct a new enclosure in the northwest corner of the parking lot. The design and area of the enclosure is proposed to comply with the design requirements of the Zoning Code.

Finding:

- D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

- D-1. The Traffic Engineer and Fire Department have reviewed the configuration of the new parking lot extension and proposed changes to the existing parking lot, and have determined that the parking lot design will function safely and will not prevent emergency vehicle access to the establishment.
- D-2. The applicant is proposing to install fire sprinklers and a grease interceptor for the establishment.
- D-3. The site is currently served by public services and utilities.
- D-4. The area of the site, including the off-site parking lots, is approximately 22,680 square feet and adequate in size to accommodate the subject establishment and all required parking.

- D-5. The site is located at the northwest corner of Newport Boulevard and 30th Street, with the building fronting onto Newport Boulevard. This is an appropriate location for an eating and drinking establishment and is compatible with other commercial uses fronting Newport Boulevard.

Finding:

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

- E-1. The nearest residential uses are located to the west on 30th Street, across from the loading dock of the adjacent shopping center. The nearest dwelling is located approximately 130 feet from the closest extent of the new parking lot boundaries and approximately 220 feet from the building itself. The adjacent shopping center building and an 8-foot-high block wall provides a screening and noise buffer from the project site. The applicant has also planted a row of bamboo trees along the block wall to help visually screen the establishment.
- E-2. The parking lots improvements and proposed facade improvements will have a positive impact on the overall aesthetics and economic health of the community, and may promote further revitalization of the other commercial properties located along Newport Boulevard.
- E-3. Increased pedestrian and vehicular activity is expected during late and early morning hours as a result of the increased occupancy; however the applicant will be required to obtain an Operator License from the Police Department. The Operator License will provide for enhanced control of noise, loitering, litter, disorderly conduct, parking/circulation, and other potential disturbances resulting from the establishment, and will provide the Police Department with means to modify, suspend, or revoke the operator's ability to maintain of late-hour operations if objectionable conditions occur.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Conditional Use Permit No. UP2010-039 and Comprehensive Sign Program NO. CS2011-002, subject to the conditions set forth in Exhibit A and the Sign Program Matrix included in Exhibit B, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance

with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

3. This resolution supersedes Use Permit No. 1792 and Use Permit No. 1792 (amended), which upon vesting of the rights authorized by this Conditional Use Permit No. UP2010-039, shall become null and void.

PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF MARCH, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Earl McDaniel, Chairman

BY: _____
Michael Toerge, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL**
*(Project-specific conditions are in italics)***PLANNING**

1. *The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)*
2. *All proposed signs shall be in conformance with the approved plans, Comprehensive Sign Program Matrix attached as Exhibit B, and provisions of Chapter 20.67 of the Newport Beach Municipal Code.*
3. *Conditional Use Permit No. UP2010-039 and Comprehensive Development Plan No. CS2011-002 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
4. *The approval is only for an eating and drinking establishment defined as Food Service, Late Hours as defined by Title 20 of the Municipal Code; however, the establishment may operate with the principal purpose of the sale and service of alcoholic beverages with incidental food service after the hour of 11:00 p.m.*
5. *Full meal service shall be provided during all hours of operation, except after the hours of 11:00 p.m.*
6. *The hours of operations shall be limited to between 7:00 a.m. and 11:00 p.m., daily, unless the operator of the establishment secures and maintains an Operator License pursuant to Chapter 5.25 of the Municipal Code. In no case shall the establishment be permitted to operate beyond the hours of 2:00 a.m.*
7. *The outdoor dining patio shall be closed no later than 11:00 p.m., daily.*
8. *The Operator License required to be obtained pursuant to Condition No. 6 and Chapter 5.25 of the Municipal Code, may be subject to additional and/or more restrictive conditions to regulate and control potential late-hour nuisances associated with the operation of the establishment.*
9. *The material and color of any awning or umbrella located on the outdoor dining patio shall be subject to review and approval by the Planning Division. No form of advertisement shall be placed on an awning, umbrella or elsewhere in the outdoor dining patio. The outdoor dining patio, including any awning or umbrella, shall be maintained in a clean orderly condition at all times.*

10. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
11. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
12. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
13. This Conditional Use Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
14. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Conditional Use Permit or the processing of a new Conditional Use Permit.
15. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
16. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
17. Prior to issuance of building permits, approval from the California Coastal Commission shall be required.
18. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
19. Water should not be used to clean paved surfaces such as sidewalks, driveways, parking areas, etc. except to alleviate immediate safety or sanitation hazards.
20. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Deputy Community Development Director, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Deputy Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.

21. The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
Location	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

22. No outside paging system shall be utilized in conjunction with this establishment.
23. *Recorded music or other types of sound amplification within the outdoor patio area shall only be audible to the audience within the patio area.*
24. All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets within the limits authorized by this permit, and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.
25. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
26. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate), except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
27. *A new trash enclosure shall be constructed in the location illustrated on the approved plans. The trash enclosure shall comply with the development and location standards contained in Section 20.30.120 of the Zoning Code.*
28. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.

29. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
30. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
31. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Deputy Community Development Director, and may require an amendment to this Conditional Use Permit.
32. The exterior of the premises, including signs and accessory structures, shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
33. Prior to final of the building permits, the applicant shall prepare and submit a practical program for controlling litter, spills, and stains resulting from the use on the site and adjacent areas to the Planning Division for review. The building permit shall not be finalized and use cannot be implemented until that program is approved. The program shall include a detailed time frame for the policing and cleanup of the public sidewalk and right-of-way in front of the subject property as well as the adjacent public right-of-way (25 feet north and south of the subject property) not just in front of the subject tenant space. Failure to comply with that program shall be considered a violation of the use permit and shall be subject to administrative remedy in accordance with Chapter 1.05 of the Newport Beach Municipal Code that includes issuance of a citation of violation and monetary fines.
34. A covered wash-out area for refuse containers and kitchen equipment, with minimum useable area dimensions of 36-inches wide, 36-inches deep and 72-inches high, shall be provided, and the area shall drain directly into the sewer system, unless otherwise approved by the Building Division and Public Works Department in conjunction with the approval of an alternate drainage plan.
35. Kitchen exhaust fans shall be installed/maintained in accordance with the Uniform Mechanical Code. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.
36. The rear doors of the facility shall remain closed at all times. The use of the rear door shall be limited to deliveries and employee use only. Ingress and egress by patrons is prohibited in unless there is an emergency.
37. All doors and windows of the entire facility shall remain closed at all times except for the ingress and egress of patrons and employees.

38. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge, including minimum drink orders or sale of drinks is prohibited
39. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
40. There shall be no on-site radio, televisions, video, film or electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
41. *All employees are required to park on-site.*
42. *A total 47 parking spaces shall be provided on-site or on the adjoining off-site locations.*
43. *Prior to final of the building permits, a parking agreement, which guarantees the long term availability of the off-site parking facilities for the use of the subject establishment, shall be recorded with the County Recorder's Office. The agreement shall be in a form approved by the City Attorney and the Community Development Director.*
44. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
45. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 47 in conjunction with the service of food as the principal use of the facility. Any upgrade in the alcoholic beverage license shall be subject to the approval of an amendment to this application and may require the approval of the Planning Commission.
46. Any event or activity staged by an outside promoter or entity, where the restaurant owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a

door charge, cover charge or any other form of admission charge, including minimum drink orders or sale of drinks is prohibited.

47. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the license.
48. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when served in conjunction with food ordered from the full service menu.
49. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
50. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs that are clearly visible to the exterior shall constitute a violation of this condition.
51. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food and retail sales during the same period. The licensee shall maintain records that reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Planning Division on demand.
52. Live entertainment and dancing shall be prohibited as a part of the regular operation, unless an amendment to this conditional use permit or other required application is first approved in accordance with the provisions of the Municipal Code.
53. The establishment shall provide licensed security personnel. A comprehensive security plan for the permitted uses shall be submitted for review and approval by the Newport Beach Police Department. The procedures included in the plan and any recommendations made by the Police Department shall be implemented and adhered to for the life of the conditional use permit.
54. *The applicant shall provide security personnel within the parking lot in the evenings between 11:00 p.m. and 15 minutes after closing, in sufficient number, to advise and assist patrons entering and leaving the area in a quiet manner, and to prevent loitering by patrons after the close of business.*
55. *The operator of the establishment shall post signs at clearly visible locations within the establishment and throughout the parking lot advising patrons to keep noise at a minimum.*
56. The operator of the establishment shall maintain a copy of the most recent City permit conditions of approval on the premises and shall post a notice that these are available for review on the premises. The posted notice shall be signed by the permittee.

57. *To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Malarky's Irish Pub including, but not limited to, Conditional Use Permit No. UP2010-039 and Comprehensive Sign Program No. CS2011-002 and the determination that the project is exempt under the requirements of the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.*

Fire Department Conditions

58. Automatic fire sprinklers shall be required if the occupant load is 100 persons or more.
59. Portable propane heaters are not permitted. Any proposed heaters for the new outdoor dining patio shall be either electric or natural gas installed in accordance with the California Electrical or Plumbing Code.

Building Department Conditions

60. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
61. All exits shall remain free of obstructions and available for ingress and egress at all times.
62. Strict adherence to maximum occupancy limits is required.
63. Grease interceptors shall be installed on all fixtures in the restaurant where grease may be introduced into the drainage systems in accordance with the provisions of the Plumbing Code, unless otherwise approved by the Building Division.

Public Works Conditions

64. *The proposed signs, awning, and entry canopy that project into the public right-of-way shall comply with City Council Policy L-6.*

65. *Prior to final of the building permits, the applicant shall be reconstruct the curb, gutter and sidewalk from the southerly building corner to the northerly property line along Newport Boulevard.*
66. *Prior to final of the building permits, the applicant shall reconstruct the existing driveway approach at the northerly portion of the project site along Newport Boulevard.*
67. *Implementation of valet parking shall not be permitted unless a valet operation and management plan is first submitted for review and approved by the Deputy Community Development Director and the City Traffic Engineer.*

EXHIBIT "B"

Sign Program Matrix



Comprehensive Sign Program Matrix for 3011 Newport Blvd

Planning Department
3300 Newport Boulevard, Newport Beach, CA 92663
(949)644-3200 Telephone | (949)644-3229 Facsimile
www.newportbeachca.gov

Frontage Designations:

- A. Newport Blvd
- B. 30th Street
- C. Northwest (Facing Shopping Center)

(LF = Linear Feet / SF = Square Feet)

Type of Sign	Primary Frontage Newport Blvd	Secondary Frontage 30 th Street & Northwest (Facing Shopping Center)
Wall Sign (1)	Maximum number of signs: 3 Maximum sign area: 75 SF Maximum vertical dimension: 18 inches Minimum distance from building corner: 7 feet	Maximum number of signs: 1 Maximum sign area: 37.5 SF Maximum vertical dimension: 24 inches Minimum distance from building corner: 7 feet
Projecting Sign (1) (2)	Maximum number of signs: 1 Maximum sign area: 10 SF Maximum Projection: 3 feet	N/A
Awning Sign (1) (2) (3)	Maximum number of signs: 4 Maximum sign area: 8 SF Maximum vertical dimension: 6 inches	Maximum number of signs: 2 Maximum sign area: 4 SF Maximum vertical dimension: 6 inches
Total Sign Area	75 SF for any combination of signs	37.5 SF for any combination of signs

NOTE: Sign area is the area measured by two perpendicular sets of parallel lines that surround the proposed logo and sign copy. All signs shall substantially conform to the approved set of plans stamped and dated March 3, 2011. Pursuant to Section 20.42.120.F of the Zoning Code, the Planning Director may approve minor revisions to the Sign Program if the intent of the original approval is not affected.

- (1) Subject to the regulations of 20.42.080 for sign standards by sign type, unless otherwise indicated by table matrix and or in the finding and conditions in the associated resolution of approval.
- (2) A minimum of 8 feet of clearance between the lowest part of a sign/awning and the grade below shall be provided.
- (3) Signage limited to valance only. A maximum of 50 percent of the valance area shall be used for signage.

Attachment No. PC 2

Project Plans

RECEIVED BY
 PLANNING DEPARTMENT
 FEB 17 2011
 CITY OF NEWPORT BEACH

MALARKY'S
 IRISH PUB
 REMODEL

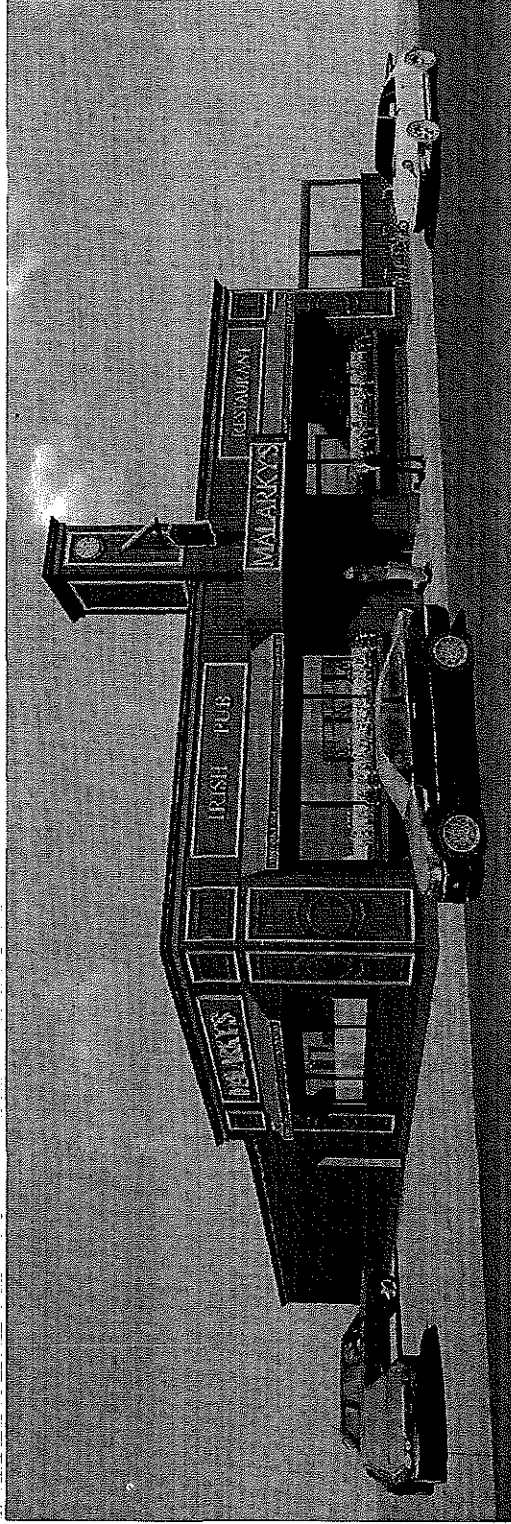
301 NEWPORT BLVD
 NEWPORT BEACH, CA 92660
 (949) 675-2940

REVISIONS

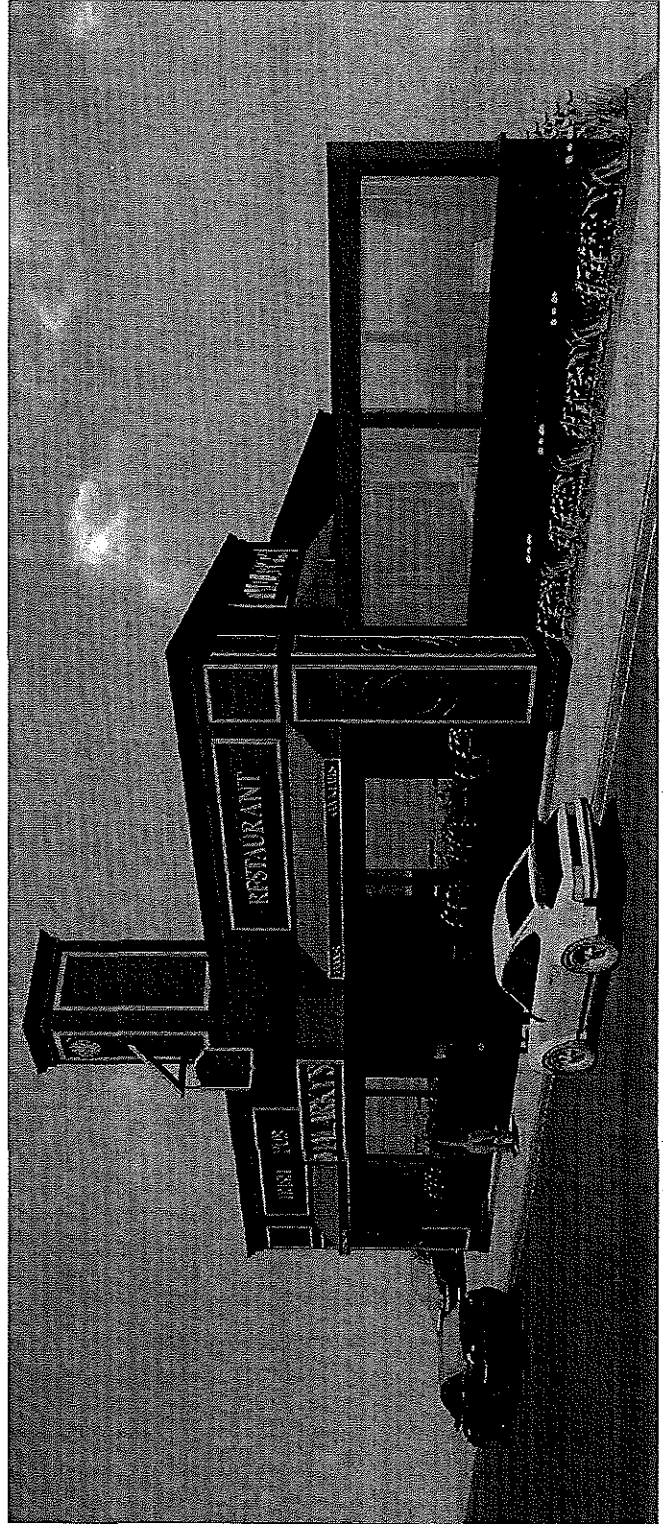
PROJECT NO.
 2010-10
 DRAWN BY
 CHECKED BY
 ISSUE DATE
 12/11

SHEET TITLE
 OPTION A
 PERSPECTIVE

A0.1A

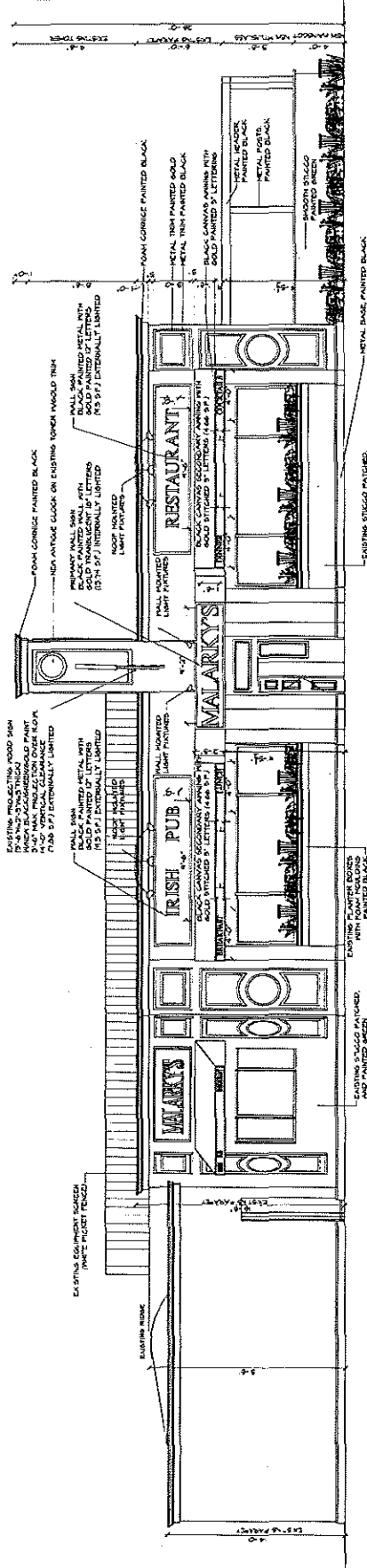


(A) SOUTHEAST PERSPECTIVE - OPTION A
 1/4" = 1'-0"

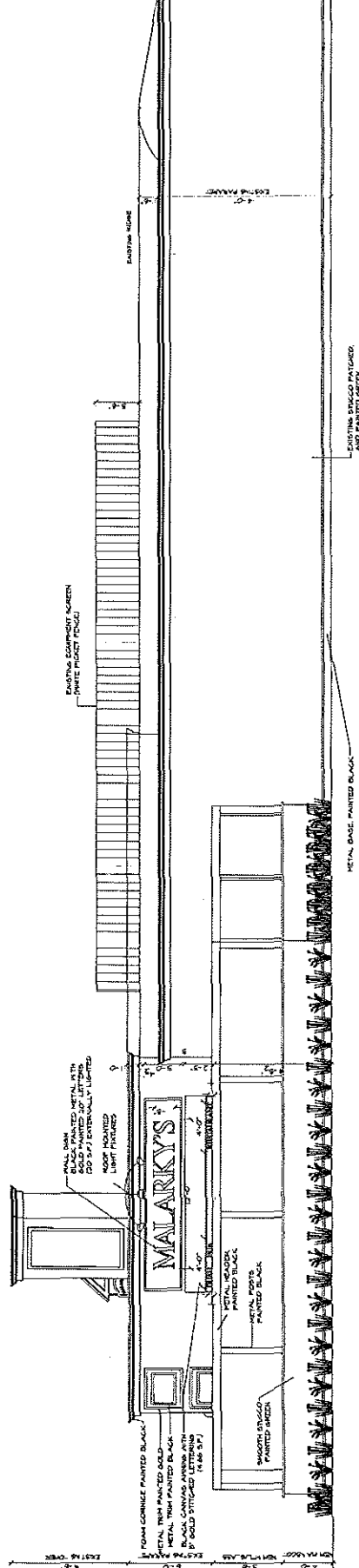


(B) NORTHEAST ELEVATION - OPTION A
 1/4" = 1'-0"

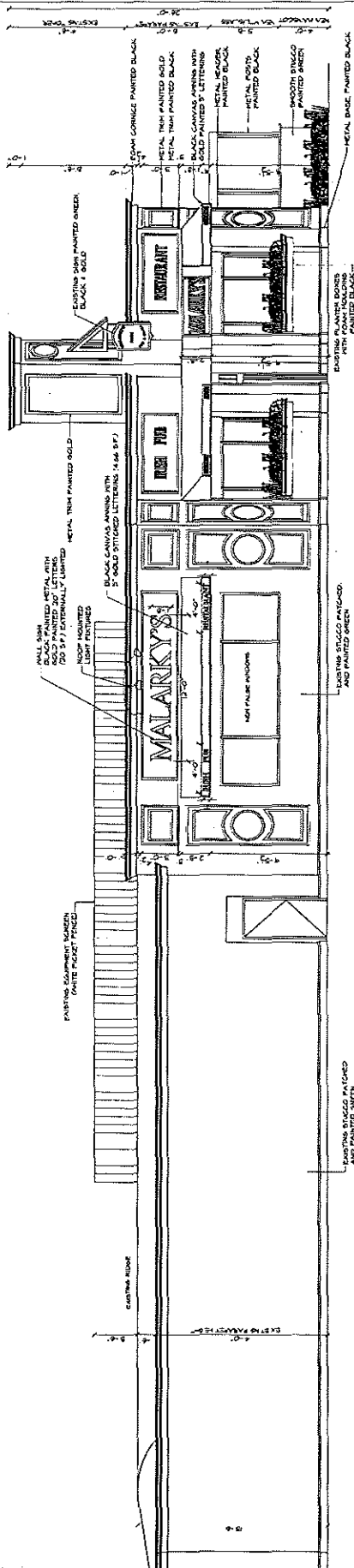
NOTE: THIS IS A COMPILATION OF PREVIOUSLY APPROVED PLANS FOR REFERENCE ONLY (SEE SOURCES REFERENCED ON THIS SHEET) WHICH HAS BEEN MODIFIED TO MAINTAIN THE EQUIVALENT PARKING CAPACITY DESPITE THE ADDITION OF THE PATIO AREA



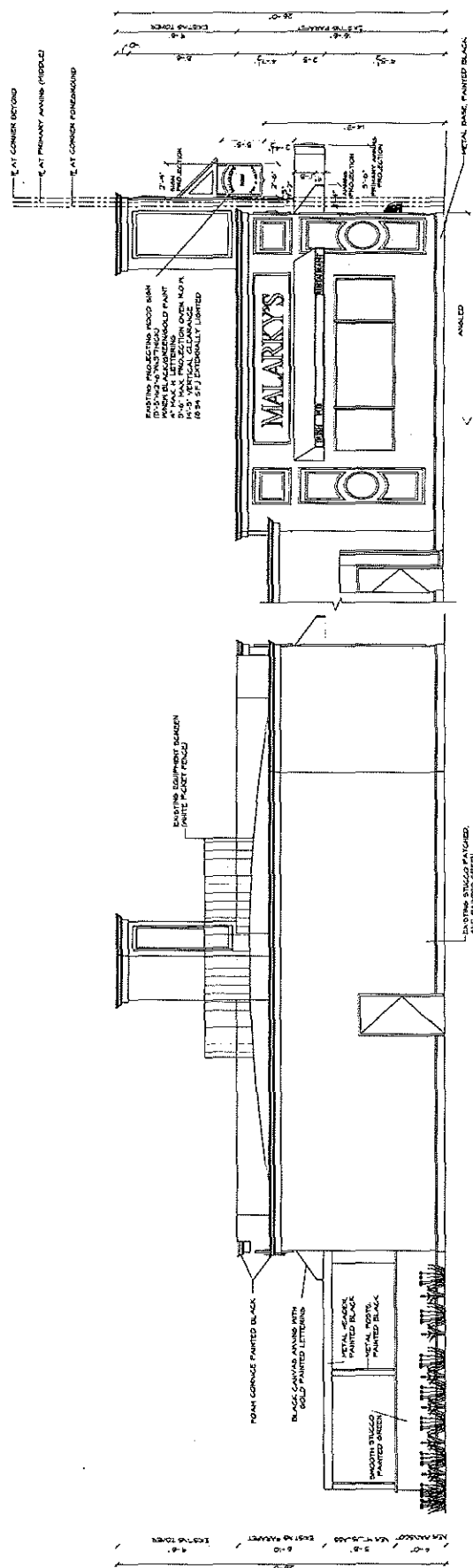
A EAST ELEVATION
 1/4" = 1'-0"



B NORTH ELEVATION
 1/4" = 1'-0"



6 SOUTH ELEVATION
1/4" = 1'-0"



D WEST ELEVATION
1/4" = 1'-0"

③ PARTIAL ELEVATION (PERPENDICULAR TO STOKESFRONT)
1/4" = 1'-0"

Attachment No. PC 3

Basic Lease Provisions

BASIC LEASE PROVISIONS

Effective Date of Lease: the 1st day of January, 2010

Landlord: Theresa C. Morrison, Trustee of the
William J. Cagney Trust dated April 17, 1987

Landlord's Notice Address: William J. Cagney Trust
Theresa Cagney Morrison, Trustee
c/o CE Property Management Services
1953 San Elijo Avenue, Suite 202
Cardiff, California 92007
ATTN: Judy Lehnhoff, Director of Property Management
AND
P. O. Box 549
Cardiff, California 92007

Additional Notice Address: William J. Cagney Trust
Attn: Theresa C. Morrison, Trustee
1953 San Elijo Avenue, Suite 202
Cardiff, California 92007

Address for
Payment of rent: Same as above for Landlord's notice

Tenant: MARIO MAROVIC AND ASHLEA ESPARZA MAROVIC,
Husband and Wife

Tenant's Notice Address:

Premises Street Address : 3011 Newport Boulevard
Newport Beach, California 92663-3809

Premises Floor Area: There are three property parcels containing a total of 22,680 square feet of land area on which exists a building containing approximately 5,134 square feet. The parcel of property known as 3001 Newport Boulevard (Assessors Parcel #047-060-10) contains approximately 8,500 square feet of land area, and the parcel(s) of property known as 3009 and 3011 Newport Boulevard (Assessors Parcel #'s: 047-060-01 and 047-060-06) collectively contain approximately 14,180 square feet

WJM
AM

of land area (within which there exists a building of approximately 5,134 square feet).

Base Term: Ten (10) years

Option(s): One (1) option of five (5) years
with Minimum Annual Rent as set forth in Exhibit C, Options

Date of Delivery: Subject first to the provisions of Section 27.e) contained herein, Landlord will deliver the Premises to Tenant within 3 days following the successful termination of the existing "Malarky's" month to month lease and their vacation of the premises by 15 March 2010. The Premises will be delivered to Tenant in their "AS IS" condition as of the date of delivery.

First Twelve Month's
Minimum Annual Rent:

Security Deposit:

First Month's Prepaid Rent:

Percentage Rent Rate:

Tenant's Trade Name:

Permitted Use:

Broker: Cyndi Ybarra (for Landlord)

EXHIBITS:

- "A" Site Plan
- "B" Work Letter
- "C" Options
- "C-1" Acknowledgment of Commencement of Term
- "D" Rent Schedule
- "G" Tenant's Estoppel Certificate

Wm TAN
AN

Attachment No. PC 4

Security and Crowd Management Plan

SECURITY PERSONNEL

All security personnel will be directly employed by the Malarky's Irish Pub and as such will be subject to all Malarky's Irish Pub procedures and policies. Including but not limited to having a current guard card for the duration of employment, fulfilling Malarky's training course and being L.E.A.D certified. All records will be kept on file and accessible to the manager on duty.

Malarky's security personnel responsibilities will include but not limited to:

- Verifying that guests are of appropriate age and posses current up to date California acceptable ID's
- Greeting Customers
- Enforcing dress code:
 - No tank tops
 - No bandanas
 - No club affiliation(gang attire)
 - No sports jerseys
 - No UFC affiliated attire (tapout)
 - California casual attire
- Maintaining a clear and safe environment both inside and outside the business
- Observing for over intoxicated guest
 - Not allowing any such person entrance to the business
- Being proactive by watching for aggressive or confrontational guests
- Intervening before a verbal altercation before it becomes a problem
- Helping to keep order and clear passage for both guests and personnel alike
- Keeping an accurate count of guests and employed personnel in the building
- Helping to ensure that no minors are being served alcohol

Two security members will be inside with pre-designated posts to help prevent congestion. They will also be responsible for helping to maintain a safe environment by observing for over intoxicated guests and potentially violent guests or situations

We will have a security staff member at each door from 9PM till close.

On any given night we will have one security person for every 50 persons in the building. In addition to having security staff on duty we will also have a 16 camera video surveillance system that cover most parts of the interior and some of the exterior including queuing and designated smoking areas. In a case where our surveillance can be helpful we will be more than willing to turn over any video footage we may have to Newport Police department.

Sunday, Monday, Wednesday

1-2 Security Staff members at 9PM, an additional 1 to 2 at 10PM amount may vary depending on the number of guests

Tuesday, Thursday, Friday, and Saturday

2 Security staff members at 9PM, an additional 2 to 3 at 10PM

We will increase security staff to accommodate and account for any national holidays, long weekends, etc. As we understand that those particular days increase business.

SECURITY PERSONNEL UNIFORMS

All security personnel will be required to wear a Malarky's security uniform. The Malarky's Irish Pub will provide the following items to complete the uniforms.

An identifying tag with **SECURITY** etched into it to help identify them as security personnel

Flashlights, digital counters, black lights for the doors, current ID books, 30x Magnifying loop, Kenwood 2 way radios with Pryme noise reduction acoustic ear pieces

In addition, Security personnel will be required to carry current guard cards and ID on them at all times.

CONTROL AND CLEARANCE OF PARKING LOT/SIDEWORLD/QUEUING AREA

When the first two security personnel have clocked in one will be instructed to do a physical count to establish our current head count. Once the first security member has completed a count they are to set both counters to our current head count. From this point anyone entering or exiting will be accounted for by communicating via radio.

Once we have reached capacity and there is need for a queue, all guests will be asked from the front entrance only. The line will form on the front side of the property and run in line with our property as to not encroach on the public sidewalk. Anyone who wishes to smoke will be asked to smoke on the South side of building at which time the South side door will be for exit only and smoking. When a guest steps outside to smoke they receive a stamp and will still be included into capacity count. If a person leaves from the South side of the building, the security member stationed at that door will radio to the person stationed on the Front door the amount of people exiting. The security staff member on the Front door will do the same and also radio the amount of people entering to help insure an accurate count at both doors. Security personnel will be in constant communication with each other and managers throughout the night.

Malarky's Irish Pub Security personnel will be required to perform periodic patrols of the immediate parking lot to ensure no loitering littering, graffiti or illegal consumption of alcohol or narcotics. If any persons are observed partaking in any illegal activities they will be asked to cease and desist and the manager on duty will be notified and in turn will notify the Newport police department.

Upon closing, 3 of the Malarky's security personnel will patrol the parking lot in our immediate area to ensure safe departure of Malarky's guest and pedestrians. Once the parking lot is clear a member of the Malarky's security staff will be required to sweep the immediate area of the business to make it is free of trash cigarette butts and debris that any have accumulated due to business operations.

INCIDENTS INVOLVING FORCE

Malarky's Irish Pub has a strict no hands on policy. We have instructed all personnel to avoid aggressive or forceful confrontation with a potentially aggressive guest. We encourage a verbal and diplomatic resolution to a problem guest. We only condone reasonable force to subdue an aggressive guest if they're a direct threat to themselves, another guest or other member of Malarky's personnel.

If force is required in any way security personnel are required to follow the strict procedures that have been set forth and signed by each security staff member established by the Malarky's Irish Pub. These procedures include notifying Newport Police Department as soon as it is safe or situation allows

INTOXICATED PERSONS

Once an over intoxicated guest has been identified, the security member will notify the manager. At that point all serving staff will be notified that the person in question will no longer be served alcohol. If the person in question is with a group of people the manager and a member of the security staff will approach one of his/her sober friends to possible assist in getting the person in question an alternative form of transportation home. As according to California law it is illegal to serve or have a person who is obviously intoxicated in your establishment.

If the person in question is alone a manager accompanied by a security staff member will approach the guest and inform them that we will no longer by law be allowed to serve them alcohol. At which point the manager will offer an alternative mean of transportation i.e. Taxi or a friend to pick them up. If the person refuses and insists on driving the security staff member will then keep the person in a question engaged conversation while the Malarky's manager on duty will call Newport Police Department and notify them of the situation providing them with any pertinent information.

It is Malarky's policy to assist an intoxicated person in finding an alternate means of transportation home other than driving.

VERIFYING AGE/CHECKING IDENTIFICATION

When greeting customers, Security personnel will be responsible for making sure that the guest entering is of age, has a current California accepted bona-feed ID. The ID should be current and offer a physical description, have a photo and show date of birth to be 21yrs of age or older. If the security member greeting has any questions about the ID they will be instructed to consult our most current California acceptable ID book provided by one of our local distributors. Malarky's enforces the F.L.A.G. procedure.

Feel – Feel the ID for any inconsistencies. Cracking, Peeling, Texture

Look – Look at the ID to make sure all information is correct and current and make sure the person on the ID is the person presenting it.

Ask – Ask questions. For example. Are you 21 or older? What is your birthday? Where do you live?

Give Back – Once they have determined that the person possessing the ID is 21 years of age or older, they will give the ID back to the person and allow them the enter

If determined that the ID presented is not real or is another person than the one presenting it. The greeting security member will notify the manager on duty, confiscate the ID and provide the person with a receipt and instructions that it will be turned over to the Newport Police Department within 24 hours and can be claimed there.

We also provide our security staff that greets guests with a black light to help identify any black light sensitive printings and a 30x magnifying loop for Micro printing.

CONCLUSION

We at the Malarky's Irish Pub understand the importance of being proactive when it comes to security

situations. It is important to be firm and impartial. We also stress to our security staff to stick to the facts when dealing with a situation. Opinions and personal feeling may not and cannot be a part of decision making when it comes to the safety and control of the guests. We also stress the importance of communication between server's security and managers. That is why whenever we have security staffs on duty all security and managers will be wearing a radio to help aid in communication and professionalism. We have a managers involved in any security related issue whenever possible. All security personnel are instructed never to handle a situation by themselves. We take a great pride in having a knowledgeable friendly and professional security staff.

We at the Malarky's Irish Pub also understand the importance of police involvement in altercations or other specific security issues. It is important to be willing to work with the Newport Police Department to help us insure the safety of our guest and pedestrian walking by our establishment. We encourage notes comments and support of the Newport Police Department.

Attachment No. PC 5

Police Department Memorandum

**City of Newport Beach
Police Department**

M e m o r a n d u m

December 9, 2010

TO: Jaime Murillo, Associate Planner

FROM: Detective Bryan Moore

SUBJECT: Malarky's Irish Pub, 3011 Newport Boulevard, Use Permit No. 2010-039, (PA2010-172).

At your request, the police department has reviewed the project application for *Malarky's Irish Pub*, located at 3011 Newport Boulevard, Newport Beach. The applicant requests to expand the existing restaurant and bar. The expansion includes remodeling the interior of the facility to create a new seating area and to provide ADA compliant restrooms. The interior net public area (NPA) is proposed to increase by 649 square feet. A new 796 square foot outdoor patio is also proposed to be constructed. Overall, the facility will have a total NPA of 2,735 square feet. In addition, the applicant is proposing to renovate the exterior of the facility including the installation of new signs, awnings and an entry canopy. Proposed hours of operation are 7:30 a.m. to 2:00 a.m.

The applicant will be proposing valet parking on the weekends to accommodate the peak parking demand of 57 spaces. It is also the applicant's intent to utilize the valet to mitigate noise and prevent loitering in the adjacent parking lot. A valet parking management plan is currently under preparation.

The applicant currently holds a Type 47 (On Sale General – Eating Place) license, in good standing, with the Department of Alcoholic Beverage Control.

I have included a report by Crime Analyst Paul Salenko that provides detailed statistical information related to calls for service in and around the applicant's place of business. This report indicates that this new location is within an area where the number of crimes is at least 75% higher than the average of all reporting districts in the City. This location is also within an RD that is over the Orange County per capita of ABC licenses.

Applicant History

The applicant, Mario Marovic, is a resident of Corona del Mar and has been the principle owner/operator of Malarky's Irish Pub since April of 2010.

Malarky's
UP No. 2010-039

The Marovic family has been in the restaurant business since 1973 with Mario first acquiring ownership in 1998. Mario Marovic also owns several other residential and commercial properties in Newport Beach, including the District Lounge and the Landmark Steakhouse.

Marovic intends on maintaining Malarky's as a traditional Irish pub; however, he proposes several renovations that will aesthetically improve the exterior and interior of the restaurant. Marovic envisions that the expanded interior / patio will be utilized for dining where breakfast, lunch and dinner will be served 7 days a week. Additionally, Marovic plans on providing an upscale menu of traditional Irish cuisine that will enhance the overall quality of the restaurant.

Marovic also acknowledges that after 10:00 p.m. the establishment will primarily be utilized as a bar; however, he does wish to make a late night menu available until close.

Police Activities and Calls for Service Data (Malarky's Irish Pub)

The below information represents the time period between December 1, 2009 through December 1, 2010:

TYPE	CALLS/INCIDENTS	NOTES
Fights/Disturbance Calls	23	Batteries, loud music, keep the peace
B&P Violations	1	Minor in Possession of Alcohol
Alcohol Related Arrests	2	(1) DUI and (2) public intoxication
Officer Initiated Activity	29	Bar checks, subject/vehicle stops
Misc	15	Alarm, theft reports, MC violations

*The above table is a cursory look at calls for service. The individual details of each event have not been investigated.

Recommendations

The proposed location for Malarky's Irish Pub is located in RD (reporting district) 15 which is the most concentrated area for retail alcohol establishments in Newport Beach (1 ABC license for every 38 residents). Additionally, this RD had a total of 946 reported crimes as compared to a City wide reporting district average of 162 reported crimes (483.95% above the City wide RD average). These statistics would tend to indicate that there is a strong correlation between the over-concentration of ABC establishments and police related activity.

Additionally, Malarky's Irish Pub has traditionally operated primarily as a bar between the hours of 10:00 p.m. and 2:00 a.m. Per the applicant's proposal, this will remain the same; however, an outdoor patio will be added and the interior square footage will increase which will raise the total occupancy of the establishment. Despite the best operator's intentions, the Police Department believes that this change will have a significant impact on noise with regard to the nearby residential areas.

We are also projecting that the applicant's proposal will result in an increase in police related activities and calls for police services. The resources required to address these events would detract from our ability to provide police services to the other areas of the community; therefore, we are recommending against the expansion of the interior of Malarky's Irish Pub.

The Police Department is not opposed to the addition of an outdoor patio; however, we would recommend that the outdoor patio close at 10:00 p.m., daily. We feel that these recommended hours would limit the effects that noise will have on the neighboring residential areas.

Should this application be approved, the Police Department recommends the following conditions:

Signs and Displays

Any signs or displays would need to conform to City requirements. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.

Hours of Operation

The current hours of operation are from 7:30 a.m. until 2:00 a.m.

The Police Department recommends that the outdoor patio close at 10:00 p.m., daily.

Security

The applicant shall provide licensed security personnel. A comprehensive security plan for the permitted uses shall be submitted for review and approval by the Newport Beach Police Department. The procedures included in the plan and any recommendations made by the Police Department shall be implemented and adhered to for the life of the use permit.

Employee Training

Require all owners, managers, and employees selling alcoholic beverages to undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.

Additional Comments

For the purposes of this application, staff may also want to consider establishing conditions that would require a special event permit. A special event permit may be required for any event or promotional activity outside the normal operational characteristics of the proposed operation. For example, events likely to attract large crowds, events for which an admission fee is charged, events that include any form of contract promoters, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

Other Recommended Conditions

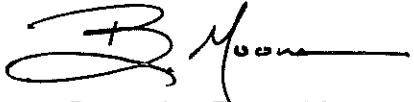
In addition, the Police Department has determined that the following conditions would be appropriate for the conditional use permit for the business:

1. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code, unless the planning commission first approves a use permit.
2. No alcoholic beverages shall be consumed on any property adjacent the licensed premises under the control of the licensee.
3. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9 p.m.
4. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
5. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the police department on demand.
6. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
7. There shall be no live entertainment allowed on the premises.
8. There shall be no dancing allowed on the premises.

Malarky's
UP No. 2010-039

9. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
10. Food service from the regular menu must be available to patrons until close.
11. Strict adherence to maximum occupancy limits is required.

If you have any questions, please contact me at (949) 644-3725.

A handwritten signature in black ink, appearing to read "B. Moore", with a stylized flourish at the end.

Detective Bryan Moore
ABC Liaison/Vice/Intelligence

A handwritten signature in black ink, appearing to read "C. Fox", with a stylized flourish at the end.

Craig Fox, Captain
Detective Division Commander

City of Newport Beach

Police Department

Memorandum

December 6, 2010

TO: Makana Nova, Assistant Planner

FROM: Paul Salenko, Crime Analyst

SUBJECT: Alcohol Related Statistics

At your request, our office has reviewed police services data for the **Malarky's Irish Pub** at **3011 Newport Blvd.** This area encompasses our reporting district (RD) number 15 as well as part of Census Tract 635. This report reflects **City of Newport Beach** crime data for calendar year 2009, which is the most current data available.

Calls for Service Information

City wide there were approximately 69,294 calls for police services during this time, of which 6,663 were in RD15. A "call for service" is, *any contact of the police department by a citizen which results in the dispatching of a unit or causes the contacted employee to take some sort of action*, such as criminal investigations, alarm responses, traffic accidents, parking problems, and animal control calls, etc.

Crime Information

There were 6,194 crimes reported to the Newport Beach Police Department during this period. Of this total, 2,884 were Part One Crimes. Part One crimes are the eight most serious crimes (*Homicide, forcible Rape, Robbery, Aggravated Assault, Burglary, Larceny-theft, Auto Theft and Arson*) as defined by the FBI in the Uniform Crime Reports. The remaining 3,350 were Part Two crimes. The Part One crime rate for the entire city during this same period was 3,297.31 per 100,000 people. The national Part One crime rate was 3,667.02* per 100,000 people.

Crimes	RD 15	Newport Beach	California*	National*
Part 1	343	2,884	1,184,073	10,639,369
Part 2	242	3,350	N/A	N/A
Part 1 Crime Rate	11,506.43	3,297.31	3,203.52	3,465.52

The number of active ABC licenses in this RD is 79**

Per capita ratio 1 license for every 38 residents.

This reporting district had a total of 946 reported crimes as compared to a City wide reporting district average of 162 reported crimes. This reporting district is 784 crimes more or 483.95% above the City wide reporting district average. This location is within an RD that is over the Orange County per capita average of ABC licenses**.

Arrest Information

There were 80 DUI arrests and 281 Plain Drunk arrest in this area during this same period as compared to 1,270 for the entire city. This RD amounts to 28.43% of the DUI/Drunk arrests made in the entire City. According to a recent national study by the Department of Justice, more than 36% of adult offenders convicted of crimes in 1996 had been drinking at the time of their arrest.

Arrests (DUI/Drunk)	RD 15	Newport Beach	California*	National*
	361	1,270	324,442	2,094,731
Total Arrests	796	3,595	1,474,004	13,687,241

Additional Information

The Alcoholic Beverage Outlets ordinance states that the Planning Commission shall consider the crime rate in the adjacent reporting districts. The two adjacent reporting districts you requested are RD 13 and RD 16

Crimes	RD 13	RD 16
Part 1	112	167
Part 2	79	107
Crime Rate	5,812.62	6,003.49
Arrests (DUI/Drunk)	39	110
Total Arrests	161	323
Calls For Service	2,554	3,261
Number of active ABC licenses	6**	6**
Per capita ratio 1 license for every	321* residents	464* residents.

Note: It is important to remember that when dealing with small numbers any change greatly affects any percentage changes.

The population figure used for the Crime Rate was 86,252.

*These numbers are from the 2009 Uniform Crime Reports, which is the most recent edition.

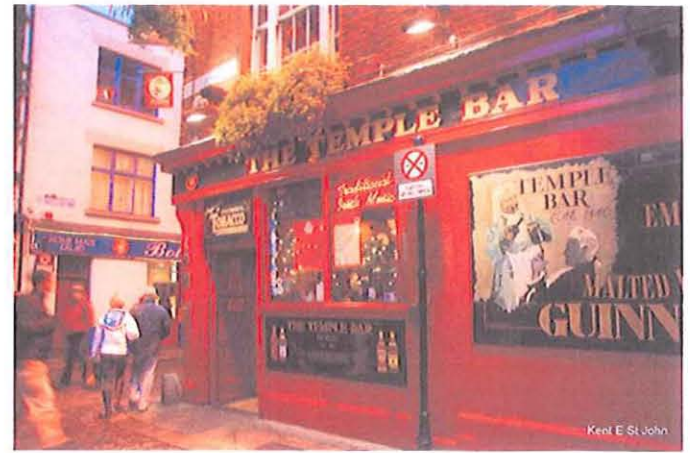
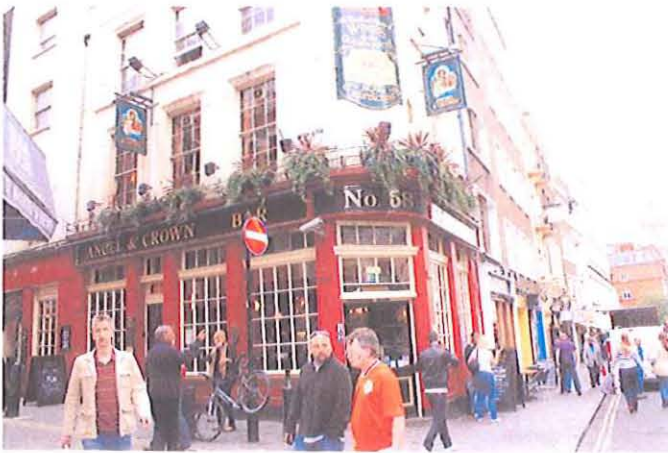
The **number of active ABC licenses is the total of all types of licenses known to the police department as of the date of this document. As of June 30, 2009 the Orange County average of active, retail ABC licenses was 1 license for every 542 residents. (5,589 licenses and a population of 3,026,786)

If you are in need of any further assistance, please contact me at (949) 644-3791.

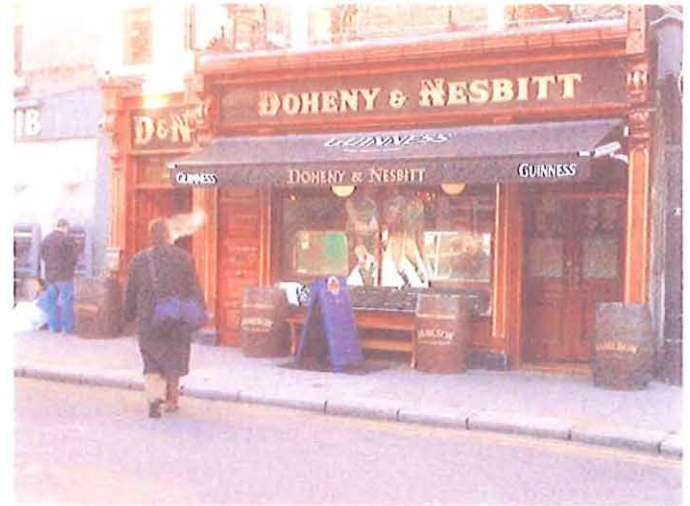
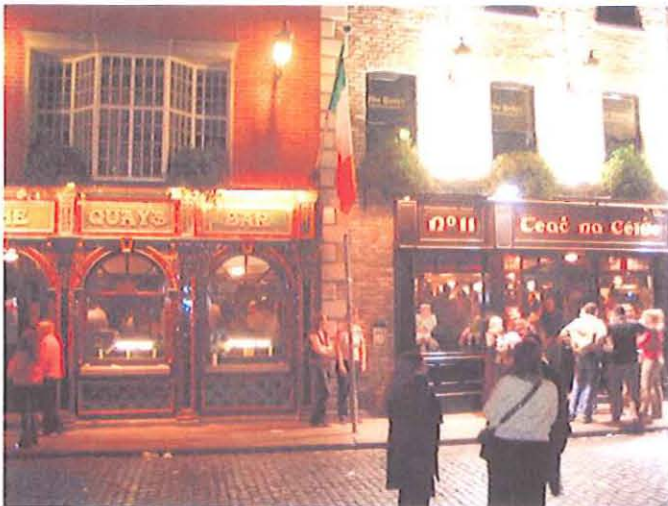
Paul Salenko
Crime Analysis Unit

Attachment No. PC 6

Design Examples



Kent E St John



Attachment No. PC 7

Correspondence in Support



NEWPORT BEACH
CHAMBER OF COMMERCE

Building on a Century of Service

February 22, 2011

Mr. Robert Hawkins, Chairman
Newport Beach Planning Commission
3300 Newport Blvd.
Newport Beach, CA 92663

RE: Malarky's Irish Pub

Dear Mr. Hawkins:

It is with great pleasure that the Newport Beach Chamber of Commerce writes a letter of support for the proposed remodel of Malarky's Irish Pub located at 3011 Newport Blvd., Newport Beach, CA 92663. The Chamber has always supported investment in our community and this remodel of a well established Restaurant is the right project at the right time.

The owner, Mr. Mario Marovic has a well established record of management in our community as owner of the Landmark Steak House in Corona del Mar since 2004 and the District Bar on the peninsula since 2006. Mr. Marovic has proven to be a responsible restaurant owner with no record of ABC violations or complaints from any of his neighbors.

Malarky's Irish Pub has been a fixture in our community for many years. The proposal adds a quaint outdoor patio area for our residents and visitors to enjoy. The location of the new patio is shielded by surrounding buildings so as to not impede on the quiet enjoyment of the neighbors. With the investment of nearly half million dollars adding a mere 500 square feet of public area including a total rehabilitation of both men's and women's bathrooms along with additional dining areas, this project will be a welcome enhancement to the area for years to come adding additional sales tax component to the City.

The project is also supported by the development of additional parking in the adjacent lot to the south and a reconfiguration and easement agreement from the adjacent property owner to the north making this project adequately parked.

For these reasons the Newport Beach Chamber of Commerce enthusiastically supports this proposed investment in our community and asks the Newport Beach Planning Commission to do the same..

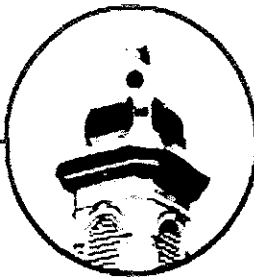
Sincerely

A handwritten signature in black ink, appearing to read 'Richard R. Luehrs', with a long horizontal flourish extending to the right.

Richard R. Luehrs
President

Cc: Members of the Newport Beach Planning Commission

NEWPORT



ELEMENTARY

SCHOOL FOUNDATION

Malarky's Irish Pub
3011 Newport Blvd
Newport Beach, CA 92663

Dear Brent & Mario,

On behalf of Newport Elementary School Foundation, I would like to personally thank you for your generous fundraiser night at Malarky's. Everyone had such a great time! We look forward to doing another event.

Your contribution is essential to the delivery of important programs and resources that enhance our children's educational experience. These are learning opportunities that would not otherwise exist due to state budget cut backs.

We are grateful for your generosity and hope you will take great pride in the important difference that your support makes.

Thank you,

A handwritten signature in cursive script that reads 'Dena Baron'.

Dena Baron

*Please tell your staff a big "Thank you" from Newport EL!!!

Newport Elementary School Foundation Board of Directors

Eric Aust, Trish Bashaw, Dena Baron, Sandi Bulgin, Mary Cappellini, Melissa Chong, John Christensen, Stacy Christensen, Kristin Douglas, Darcy Gassel, Heather Hansberger, Julee Johnson, Laura Keane, Wendy Maddocks, Max Morris, Monica Morton, Aimee Nourse, Alisa Proctor, Michelle Rappoport, Tori Rimlinger, Helen Rotherham, Kathy Sinacori, Shelly Walshe
Elizabeth Wiley, Matt Wiley

Thank you again for your generous support!

Federal Tax ID #33-0756406

Murillo, Jaime

From: Mario Marovic [mario@loungegroup.com]
Sent: Monday, January 03, 2011 4:04 PM
To: Murillo, Jaime
Subject: Letter of Recommendation

Dear Newport Beach Planning Department:

My name is Greg Mayes. I retired last December as a Police Captain from the Fullerton Police Department after almost 30 years of service. During my last few years I was responsible for coordinating police/community/business interaction as it related specifically to Downtown Fullerton. Our Downtown had grown rapidly and many issues arose that challenged the City's ability to balance public safety and perception, with the prosperity of our diverse late night entertainment venues.

My practice was always one of seeking the cooperation and assistance of our Downtown business community in the development of comprehensive strategies to minimize adverse impacts to public safety while fostering a prosperous late night business environment. This process is difficult and requires supportive and participatory business owner/operators. The success of any police/community effort relies upon the character and commitment of its City, community and business leaders; Mario Marovic is such a leader.

In 2008 the Fullerton Downtown had several problem establishments including the business known as Rock-n-Taco. This location was one of the focal points for disorder in the Downtown. In late 2008 Mr. Marovic began negotiations to purchase the business. I had not met Mario prior to becoming aware of his intentions to buy the Rock-n-Taco. Mario and I spoke on several occasions during his negotiations. I placed considerable demands upon him during my discussions and advised him he would be, "under the microscope." He said he understood the concept of consequences. Mario promised a well-managed, well-maintained business with a menu suitable for upscale dining. He advised me he would maintain security during late night hours and that he hoped to become the role-model for restaurant/lounges in the Downtown. He promised to communicate openly and honestly with other community, business and city leaders.

The Matador opened its doors in early 2009 and has been a cornerstone for stability in the Downtown ever since. Mario has lived up to his promises and exceeded expectations both personally and professionally in the Downtown business community. Mario has spearheaded Downtown business efforts in the form of restaurateur collaborations, business/community meetings and city/business efforts. He has been a significant contributor to local charity efforts including the Fullerton Boys & Girls Clubs. He has opened The Matador to fund raising events and used the business as a gathering place for entities such as the Fullerton Chamber of Commerce. Under the oversight of Mario, The Matador has become a signature location in Fullerton's late night entertainment district. Mario has worked, and continues to work, with the Police Department to cooperatively identify issues and form resolutions. Mario is a trusted resource within the community and especially the Fullerton Downtown area.

I cannot compare apples to oranges and do not have the same intimate knowledge of Newport Beach late night venues as I do of Fullerton's Downtown. I can however attest to Mario's character and commitment as it relates to the manner in which he oversees his businesses. His management of The Matador restaurant has brought to the City of Fullerton an enjoyable daytime restaurant, tasteful dining establishment and safe late night gathering place. I hope he is afforded the opportunity to do the same in Newport Beach.

With best regards,

Greg Mayes

December 20, 2010

City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663

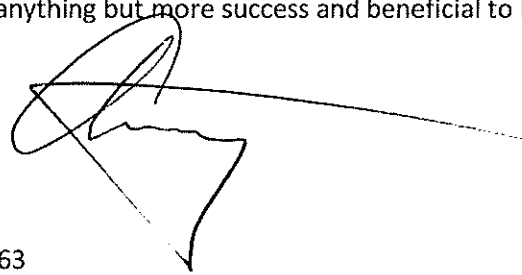
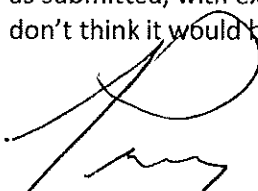
To Whom It May Concern:

I am a 35 year resident of the Balboa Peninsula and patron of the Malarky's Irish Pub. I have gotten to know Mr. Marovic very well since he acquired the business last April. Since Mr. Marovic took over operations at Malarky's, I immediately noticed many positive changes at the business. Some of the changes that took place immediately after Mr. Marovic acquired the business are:

- Implemented an employee training program;
- Improved the menu;
- Hired a full time manager;
- Purchased all new glass and dishware;
- Increased security in the evenings;
- Completed a lot of past due repairs that the previous owner neglected;

Mr. Marovic has also made numerous changes to the exterior of the building, improving its appearance and curb appeal. The entire neighborhood looks better with his outdoor improvements, from the chain link fenced off dirt lot converted to a cleanly paved parking area and the removal of the so-called "weed gardens" on the front of the building into the new streamlined, custom-built flower boxes. Even a simple fresh coat of paint has changed the building tremendously and given it (and the surrounding area) new life.

The Malarky's CUP application is particularly important to me because of my very close proximity to the building; I live a block away. I cannot see that his further renovations would harm the community in any way, only continue to improve our neighborhood. I want to express my support for the CUP application as submitted, with existing hours of operation. I am a very close neighbor and am not affected now, and don't think it would be anything but more success and beneficial to his closest neighbors.



Perry Anthony
428 31st Street
Newport Beach, CA 92663

Emerald Bay Company

December 18, 2010

Frank Kosi
EMERALD BAY COMPANY
2824 Newport Blvd
Newport Beach, Ca. 92663

RE: Malarky's Irish Pub

To Whom It May Concern,

I am writing this letter for the purpose of expressing my support and excitement regarding the proposed improvements to Malarky's Irish Pub, located at 3011 Newport Boulevard in the city of Newport Beach.

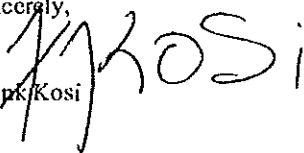
I reside at 2824 Newport Blvd, very close to the Malarky's Irish Pub. I was happy to hear that the proposed improvements to this establishment would include a new upgraded seating area with a fireplace, new restrooms and an outdoor patio for diners. As a real estate investor, I am constantly looking for new and interesting places to entertain clients while conducting business. I first started frequenting Malarky's about fifteen years ago. However, I rarely frequented Malarky's in the past few years because of its deteriorating condition. Since, Mr. Marovic acquired Malarky's last April it has noticeably improved. He cleaned up the dirt lot next to the restaurant and put in a new parking lot. The dirt lot was an eye sore for a long time and I'm happy that he cleaned that up.

With the proposed new dining area, outdoor patio and restrooms the improved Malarky's will definitely be a destination for my family, friends and clients. I look forward to being able to have dinner and drinks at the new Malarky's and enjoying my short walk home.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends, family and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Sincerely,

Frank Kosi

A handwritten signature in black ink, appearing to read 'F. Kosi' or 'Frank Kosi', written over the printed name.

December 16, 2010

Bruce Schoenberger
408 31st Street
Newport Beach, CA 92663

To Whom It May Concern,

I am writing this letter for the purpose of expressing my complete support regarding the proposed improvements to Malarky's Irish Pub, located at 3011 Newport Boulevard in the city of Newport Beach.

I am a Newport Beach resident for over 25 yeaes, I live at 3800 Channel Place. My 2nd Home /Studio, Showin Galleries & Gardens is located directly across the street from Malarky's Irish Pub off the Newport Beach Peninsula at 408 31st Street. I am one of the closest properties across the street from Malarky's Irish Pub.

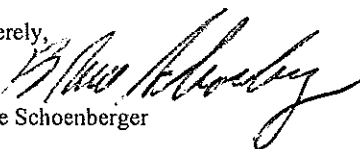
I first met Mr. Marovic when he acquired the business last April. He was kind enough to knock on my door and introduce himself as the new owner of Malarky's Irish Pub. Mr. Marovic has been very open about his plans and even asked me for any input that I may have regarding his project.

I was shocked to hear that Mr. Marovic didn't have complete support of the neighborhood. Especially since acquiring the Malarky's location, Mr. Marovic has already done more to beautify the neighborhood than any other neighbor in close proximity. For example, he took the vacant lot that became a weed garden surrounded by a chain link fence and transformed it into one of the most beautiful parking lots in the entire city.

Since Mr. Marovic acquired Malarky's I have noticed a major improvement to the food and service. I went from rarely frequenting Malarky's for lunch and dinner to eating at the establishment quite often. The new dining area, outdoor patio and restrooms will allow Malarky's to further improve its food and service by attracting a more desirable demographic. I look forward to being able to have dinner and drinks at the new Malarky's with my family, friends and business clientele.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends, family and neighbors intend to support the project as submitted! Should you have any questions or concerns, please feel free to contact me at 949-929-2136.

Sincerely,


Bruce Schoenberger

Brent Ranek
246 Lugonia St
Newport Beach, CA 92663
(949)650-2708

Date: December 20, 2010

To: CNB Planning Department
From: Brent Ranek
Re: Malarky's Restaurant

To Whom It May Concern;

I have lived and worked in the city of Newport Beach for over thirty years. I bought my first home in 1986, which I still own and rent while maintaining my primary residence also in the city. The main reason I invested in the city of Newport Beach was because of its beauty and status. These investments have held their own in this troublesome market. And I believe it is because the way this city maintains a high level of standards.

When I was asked by Mario Marovic, the new owner of Malarky's Irish Pub to write a letter on his behalf I was shocked to hear there was some reluctance by the city to have him make improvements to the property, while maintaining the existing hours of operation. For years I have driven by Malarky's and seen old washed out green awnings and a weed covered empty lot next door. I do know quite a bit about the property because at one time I approached the previous owner about buying the property. The dilapidated lot next door has been sitting empty for almost 17 years now. And now it is so nice to see that it has finally been landscaped and set up for parking.

Malarky's has been a local landmark for over 30 years now and any upgrades to this facility are long over due. Mario Marovic is a "get it done" type of businessman who has already proved with his other two businesses in the city that he uses sound judgment when it comes to improving property's. Landmark Steakhouse and The District Lounge are excellent examples of how simple upgrades can turn an average establishment into a profitable, destination "Hot Spot" that benefit all involved.

Brent Ranek
246 Lagonia St
Newport Beach, CA 92663
(949)650-2708

The fact that Mario is willing to put forth his own effort and capital to make these improvements to another restaurant in this city, to me seems that he is dedicated to making this a better city to live and work in. These improvements will benefit the city by increasing revenues and the new menu and chef that Mario has provided at Malarky's Restaurant gives all of us another option for dinner.

As a multiple home owner and past restaurant owner in the City of Newport Beach, I would trust this very successful businessman and allow him to make these necessary changes and improve another existing establishment in the City of Newport Beach.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Ranek", with a stylized, cursive script.

Brent Ranek



Southern California Division
ARCTIC GLACIER INC.

December 17, 2010

Andrew Gabriel
419 Evening Star Lane
Newport Beach, CA 92660

To Whom it May Concern:

My name is Andrew Gabriel and I am a third generation Newport Beach resident. I grew up in the city of Corona Del Mar and currently own a home in Dover Shores. My family owns residences throughout the Newport Beach area, including the Newport Beach Peninsula.

At one time, I was a frequent customer at Malarky's Irish Pub. In the past few years, I have not spent a great deal of time on the Peninsula or at Malarky's. However, since Mr. Marovic took over operations last April, it has given me an opportunity to rediscover the Malarky's Irish Pub. The few changes that have been made at this location have been great. I look forward to supporting his CUP Application and plans.

Please keep me posted on the progress of the currently submitted CUP application and plans. I intend to support the CUP application.

Thank you for your time and consideration..

Sincerely,

Andrew Gabriel

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 419-3200
Fax: (949) 419-3210
www.MarcusMillichap.com

December 17th, 2010

Nathan Holthouser
126 41st Street
Newport Beach, CA, 92663

Re: CUP Application for Malarky's Irish Pub, located at 3011 Newport Boulevard


To Whom it may concern,

I reside on the Newport Beach Peninsula. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business regularly in the City of Newport Beach. I have personally listed and sold multiple commercial properties in Newport Beach and other coastal Orange County cities. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues. I am very pleased with the improvements that have been done already to the adjacent parking lot, and I look forward to the positive impact that the new improvements to Malarky's will have on the Newport Beach Peninsula.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Best Regards,



Nathan Holthouser
Associate

December 15, 2010

To The City of Newport Beach Planning Department and Police Department:

My name is Gregory Ozimec. I am a 20-year Newport Beach resident and home owner, with two children in the local schools. I wanted to take the time to express my support for the proposed plans at 3011 Newport Boulevard, otherwise known as Malarky's Irish Pub.

I am very happy with the changes that have already taken place, especially the new paint job, façade improvements and new parking lot. I have reviewed the blueprints for Malarky's planned new restrooms and dining area, and I am in complete support of the Malarky's Irish Pub's further improvements, as are many of my friends and neighbors.

I often times ride my bicycle to Malarky's to meet friends for dinner and drinks, and feel that the additional parking recently provided by Malarky's amply supports the planned new dining room. We are looking forward to the new improved Malarky's.

By approving the Malarky's CUP application the city will allow Malarky's to create a facility that will cater to an upscale demographic. Please keep me informed of any substantial changes to the proposed CUP application. I intend to support the proposed plans and use as submitted.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Greg Ozimec".

Gregory Ozimec
315 Canal Street
Newport Beach, CA 92663

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 419-3200
Fax: (949) 419-3210
www.MarcusMillichap.com

December 17, 2010

Brin Hamblin
20362 Santa Ana Ave. #13
Newport Beach, CA 92660

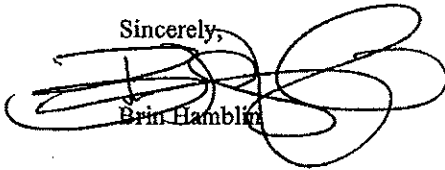
To Whom It May Concern,

I am writing this letter for the purpose of expressing my support for the proposed CUP application for Malarky's Irish Pub, at 3011 Newport Boulevard, Newport Beach.

I recently moved to Newport Beach from Indiana and have been to Malarky's quite a few times. It reminds me, a lot, of places back home and I feel it's a perfect spot for the proposed plans. I was informed of the new design by colleagues of mine and think they would be able to compete well with other area venues. I find that in my recent move here, there aren't as many true to form outdoor dining places as I would've expected. And these plans would allow for Malarky's to hold more people both indoors and out, whether it be for dining or night life.

I am completely in support of the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Sincerely,



Brin Hamblin

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 419-3200
Fax: (949) 419-3210
www.MarcusMillichap.com

December 17th, 2010

Daniel Blackwell
126 41st Street
Newport Beach, CA, 92663

Re: CUP Application for Malarky's Irish Pub, located at 3011 Newport Boulevard

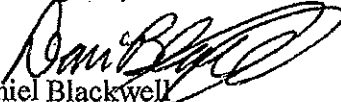
To Whom it may concern,

I reside on the Newport Beach Peninsula. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business regularly in the City of Newport Beach. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Best Regards,


Daniel Blackwell
Associate

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 419-3200
Fax: (949) 419-3210
www.MarcusMillichap.com

December 17th, 2010

Shane McConnell
1167 Campanile
Newport Beach, CA, 92660

Re: CUP Application for Malarky's Irish Pub, located at 3011 Newport Boulevard

To Whom it may concern,

I reside in the city of Newport Beach. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business regularly in the City of Newport Beach. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Best Regards,



Shane McConnell
Senior Associate

Marcus & Millichap

Real Estate Investment Services

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Tel: (949) 851 - 3030
Fax: (949) 833 - 0701
www.MarcusMillichap.com

December 17, 2010

Mark Bridge
1433 Superior Ave #142
Newport Beach, CA 92663

To Whom It May Concern,

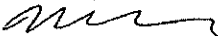
I am writing this letter for the purpose of expressing my support for the proposed CUP application for Malarky's Irish Pub, located at 3011 Newport Boulevard in the city of Newport Beach.

I reside in Newport Beach. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business on a regular basis. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Sincerely,



Mark Bridge

Marcus & Millichap

Real Estate Investment Services

Scott G. Hook
First Vice President Investments
Senior Director
National Retail Group

December 17, 2010

To Whom It May Concern,


I am writing this letter for the purpose of expressing my support for the proposed CUP application for Malarky's Irish Pub, located at 3011 Newport Boulevard in the city of Newport Beach.

I reside in the Harbor View Community of Newport Beach. I had an opportunity to review the CUP application and plans submitted for the Malarky's Irish Pub. I am in complete support of the proposed application and plans.

I am a real estate broker for Marcus & Millichap. I entertain clients while conducting business on a regular basis. The proposed improvements to the Malarky's Irish Pub will make Malarky's a desirable place for me to frequent for both business and pleasure. The new dining area, outdoor patio and restrooms will allow Malarky's to improve its target demographic and compete with other top tier venues.

Please keep me updated on any significant changes or revisions to the submitted CUP application or plans. My friends and neighbors intend to support the project as submitted. Should you have any questions or concerns, please feel free to contact me.

Sincerely,



Scott Hook

19800 MacArthur Blvd.
Suite 150
Irvine, CA 92612
Dir: (949) 419-3224
Fax: (949) 419-3343
www.MarcusMillichap.com

Frank R. Fasel
P: (714) 966-2008
F: (714) 876-6397
frf@faselnefulda.com

Thomas A. Fasel
P: (714) 966-2008
F: (714) 876-6397
taf@faselnefulda.com

Jordan B. Nefulda
P: (714) 966-2008
F: (714) 876-6397
jbn@faselnefulda.com

**Fasel
Nefulda
LLP**

Fasel Fasel & Nefulda LLP (US)
www.faselnefulda.com

Orange County
3200 Bristol Street, Suite 615, Costa Mesa, CA 92626
Los Angeles and Long Beach
One World Trade Center, Suite 800, Long Beach, CA 90831

December 20, 2010

City of Newport Beach
Planning Department
Attn: Jaime Murillo
3300 Newport Boulevard
Newport Beach, CA 92663

Re: Improvements to Malarky's Irish Pub

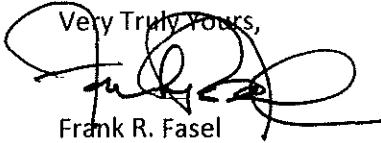
Dear Ms. Murillo,

I am a current resident of Balboa Peninsula and a local restaurant patron. Recently, Malarky's, located a block from my house, dramatically transformed the previous unsightly street corner of 30th and Newport Boulevard to an attractive restaurant destination through the addition of a new parking lot, planters and landscaping, eye-catching exterior paint, and a newly enhanced entrance. However, improvements to the site need not and should not stop at this "first phase" of redevelopment.

I have thoroughly reviewed Malarky's "phase two" improvement and remodel plan which include a new outdoor dining area, an expansion and remodel of the in-door dining area, the use of valet parking, while maintaining the current hours of operation for the entire venue. Contrary to the opinions of a few misinformed residents, I am certain that the proposed improvements will NOT be a nuisance to the surrounding area but instead greatly benefit the City of Newport Beach, its residents and visitors by:

1. Generating taxable revenue for the City;
2. Creating an attractive retail/restaurant district; and
3. Attracting sophisticated clientele.

For the aforementioned reasons, I would like to express my unequivocal support for ALL of the proposed improvements to Malarky's. Additionally, I urge you, on behalf of the City of Newport Beach Planning Department, to approve the current set of plans in their present form and immediately issue a building permit to Malarky's ownership so that they may begin "phase two" construction.

Very Truly Yours,

Frank R. Fasel
Partner